United Nations S/2006/976

Security Council

Distr.: General
15 December 2006

Original: English

Letter dated 13 December 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia and in accordance with paragraph 5 of resolution 1689 (2006), I have the honour to submit herewith the report of the Panel of Experts on Liberia.

I would appreciate it if the present letter, together with its enclosure, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1521 (2003) concerning Liberia

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Letter dated 27 November 2006 from the Panel of Experts on Liberia addressed to the Chairman of the Security Council Committee established pursuant to resolution 1521 (2003)

The members of the Panel of Experts on Liberia have the honour to enclose the report of the Panel, submitted in accordance with paragraph 5 of Security Council resolution 1689 (2006).

Panel of Experts on Liberia

(*Signed*) Arthur **Blundell**

(*Signed*) Damien **Callamand**

(*Signed*) Caspar **Fithen**

(*Signed*) Tommy **Garnett**

(*Signed*) Rajiva Bhushan **Sinha**

Report of the Panel of Experts submitted pursuant to paragraph 5 of Security Council resolution 1689 (2006) concerning Liberia

Summary

Diamonds

While progress continues, Liberia is not yet in a position to demonstrate the internal controls necessary for the Kimberley Process Certification Scheme, and thus the lifting of sanctions on diamonds is not warranted. Although most of the necessary components are now in hand, they still require final arrangement into a coherent and functioning mechanism with long-term durability and credibility. Achieving this objective will require stronger leadership, especially by the Ministry of Lands, Mines and Energy, as well as the effective ongoing management of human, financial and material resources.

Timber

The Government's moratorium on logging has also been effective, except for small-scale chainsaw logging. The Legislature passed the National Forestry Reform Law, meeting the Security Council's benchmark for lifting sanctions indefinitely. An audit of the Forestry Development Authority (FDA) demonstrated widespread corruption and incompetence during the national Transitional Government period. Members of the accounting department will be fired as part of a restructuring programme that will reduce FDA staff by half. Regional FDA offices are not operational. FDA should accept the offer by the United Nations Mission in Liberia (UNMIL) of joint military patrols. Liberia must not succumb to a resumption of logging until the new law has been fully implemented.

Financial

The financial management of the Government of Liberia has been improving steadily owing to higher revenues, partially as a result of economic growth, stricter enforcement of tax regulations and tight expenditure control. However, the lack of internal control systems and external oversight continue to be areas of concern. For example, pre-shipment inspection has been in effect for petroleum since January 2006, but implementation remains incomplete as importers are receiving product without paying all their taxes; essentially a monopoly for rice imports has been introduced without adequate public debate; and the sale of a contract for allocating 10,000 barrels of oil per day did not follow any transparent bidding system. The new Government has also failed to implement its policy of auditing the ministries during the National Transitional Government period and failed to pursue legal action against former officials who were identified by the Economic Community of West African States as having misappropriated hundreds of thousands of dollars. The inordinate delay in the appointment of the Auditor-General and large budget cuts have crippled this office of accountability in Liberia. The new Government will have to move quickly to enforce the President's campaign commitment of zero tolerance for corruption.

Socio-economic and humanitarian impact of sanctions

Liberia faces enormous reconstruction challenges. The widespread destruction of homes, educational institutions and other public facilities led to massive displacement. Water, electricity and sanitation systems remain essentially non-existent across the country; schools and clinics are constrained in service delivery by too few resources; and the public service is demoralized and has extremely limited technical capacity.

Sanctions played a decisive role in helping to end the conflict and in laying the foundation for comprehensive reforms in the diamond, timber and other sectors. At the same time, the loss of revenue to the Government and the absence of regular road maintenance in concession areas, which was previously provided by logging companies, led to the deterioration of roads and hence increased the costs borne by the humanitarian relief agencies for road maintenance.

Arms and security

Between June 2005 and September 2006, 632 weapons were destroyed, bringing the total number destroyed by UNMIL to 30,807. In the past year reports of crime have decreased slightly, but reports of serious crime, especially gang activity, mob violence and rape, have increased. The ineffectiveness of the judicial system exacerbates the situation.

The Security Council has granted waivers for the importation of weapons for the new armed forces, the police and the Special Security Service.

Allegations of recruitment for the war in Côte d'Ivoire persist. The Panel has no doubt that Liberian mercenaries are drawn to the economic opportunities that currently exist in Côte d'Ivoire, but it is also likely that informal networks exist that can be easily activated if significant fighting breaks out again in Côte d'Ivoire.

Travel ban

Facilities to obtain fraudulent passports, a lack of political will and poorly equipped and trained law enforcement staff all combine to make the travel ban difficult to enforce.

Assets freeze

More than two and half years since the Security Council adopted the assets freeze resolution (1532 (2004)), the Government of Liberia still has not frozen any assets. The new Government has not yet initiated any legislation, nor has it issued an executive order, to enforce the implementation of the resolution. Even if legislation is introduced, it is unlikely that the Legislature would approve it. Thus, it is unlikely that the Government will be able to enforce the resolution in the near future.

I. Introduction

1. On 23 June 2006, the Secretary-General reappointed the Panel of Experts on Liberia to investigate sanctions on arms, diamonds and timber and on certain individuals and entities deemed a threat to regional peace. The present report contains the Panel's assessment of sanctions, including: (a) an investigation of their effectiveness; (b) progress made towards lifting the sanctions; and (c) an assessment of their humanitarian and socio-economic impact.

2. Between July and December 2006, the Panel conducted assessments in Botswana, Côte d'Ivoire, Ghana, Liberia, Sierra Leone, Togo, the United States of America and the European Union, and collaborated with the Group of Experts on Côte d'Ivoire.

3. Unless the Security Council adopts a new resolution, the sanctions on diamonds and arms and the travel ban will expire on 21 December 2006. The assets freeze is ongoing, reviewed regularly by the Council. The Council let the sanctions on timber expire in June 2006.

Basis of the sanctions regime in Liberia

4. The Security Council imposed an arms embargo on Liberia in 1992. The sanctions regime took on a new dimension in 2001 in response to the role of Liberia in the war in neighbouring Sierra Leone. In its resolution 1343 (2001), the Council restricted trade in arms, diamonds and the travel of key Liberian officials and other individuals undermining regional security. As the conflict intensified in Liberia and rebel insurgencies arose from within Guinea (Liberians United for Reconciliation and Democracy (LURD)) and Côte d'Ivoire (Movement for Democracy in Liberia (MODEL)), the Council demanded audits on timber and the Liberian shipping registry (resolution 1408 (2002)) and extended sanctions to timber in 2003 (resolution 1478 (2003)). In June 2003, the Special Court for Sierra Leone indicted then-president Charles Taylor on crimes against humanity.

5. Sanctions and mounting international pressure, including from within West Africa (through the Economic Community of West African States (ECOWAS)), led to the adoption of a Comprehensive Peace Agreement, after which Taylor went into exile in Nigeria, temporarily avoiding the Special Court, and his Government was replaced by a National Transitional Government composed of the three warring factions. Given the fragile peace, the lack of full implementation of the Comprehensive Peace Agreement and continued concern about the linkage between natural resources and arms, the Council revised the legal basis of the sanctions in December 2003 and set out benchmarks for lifting them (resolution 1521 (2003)). In March 2004 (resolution 1532 (2004)), the Security Council imposed sanctions on individuals, demanding that States freeze the assets of the former president and other designated individuals and entities. Sanctions were maintained during 2005, given the concern about the security situation, widespread corruption within the National Transitional Government and a failure to freeze any assets in Liberia.

6. After successful elections and the inauguration of President Ellen Johnson-Sirleaf in January 2006, the new Government of Liberia has demonstrated clear efforts to meet the conditions for lifting sanctions, especially those on timber. Those steps included the President's first executive order, in which she declared all purported timber concessions null and void owing to the concessionaires'

widespread failure to comply with the rule of law (see S/2005/745, paras. 71-74). Acknowledging those efforts, the Security Council lifted the timber sanctions on 20 June 2006 (resolution 1689 (2006)), provided that the new Legislature pass a reformed forestry law within 90 days — which it did on 19 September 2006. Thus, the Council confirmed on 20 October 2006 that it was lifting timber sanctions indefinitely.

7. The sanctions on diamonds remain, however, as the sector has yet to establish an effective certificate of origin regime for trade in Liberian rough diamonds that is transparent and internationally verifiable, with a view to joining the Kimberley Process Certification Scheme.

8. The sanctions on arms remain, although waivers have been granted to arm the army, the police and the President's security detail. The ECOWAS moratorium on small arms and light weapons has been replaced by a convention with binding effects, signed on 14 June 2006.

Situation in Liberia

9. Since the inauguration of the President in January, Liberia has enjoyed a fragile peace. However, many Liberians still feel vulnerable. The Minister of Justice responded to those fears by calling upon "community dwellers, in the face of the police inability to decisively deal with the upsurge in criminal activities in the city, to organize themselves into community watch teams or vigilante groups in helping to protect themselves against these murders that are bent on disrupting our hard-earned peace". The President clarified, however, that the Government was advocating community watch teams and not mob justice.

10. The taking of justice into their own hands likely reflects people's desperation with the impunity resulting from a dysfunctional justice system (see paras. 173-179 below), as well as an intolerable increase in serious crime. In fact, although overall crime reports are down from 2005, the most dramatic increase is in vigilantism (see table 11). People recognize that the Government, especially the judiciary, are not administering the rule of law.

11. Substantial challenges remain in the Government's effort to achieve reform and accountability. Attacking corruption at high levels of Government raises the concern that corrupt actors might retaliate by fomenting violence and creating political instability. But there have been no serious repercussions arising from recent actions to hold those actors accountable. For example, despite threats, the following occurred peacefully: the Government, in collaboration with the United Nations Mission in Liberia (UNMIL), stripped control from the ex-combatants, many from LURD, in the Guthrie rubber plantation; more than 1,000 illegal gold miners were removed from Sapo Park; the logging concession review resulted in the declaration that all concessions were null and void; during the National Transitional Government period, the Speaker was removed after having been accused of financial mismanagement and corruption; and Charles Taylor was transmitted to the Special Court. Indeed, the transfer appears to have seriously disrupted the financial structure, and thus the influence, of Taylor's National Patriotic Party (NPP). NPP members held numerous meetings in Monrovia to discuss the implications of the obstruction of the flow of revenue between Taylor and his associates. In addition, they recently lost a Supreme Court case that would have limited testimony to the Truth and Reconciliation Commission against the Taylor regime.

12. At present, measures to improve accountability have included the ratification of the African Union Convention on the Prevention and Combating of Corruption and the United Nations Convention against Corruption. The Government of Liberia is also finalizing a national anti-corruption strategy and an anti-corruption commission. The Ministry of Finance has removed over 4,700 "ghost workers" from the Government payrolls.

13. Much remains to be done though. Few arrears incurred by prominent businesses during the National Transitional Government period have been collected. The Government has not frozen the assets of anyone, as required by Security Council resolution 1532 (2004) (see para. 148 below). Likewise, no action has yet been taken against those identified in the ECOWAS audit as having misappropriated funds (see paras. 139-143 below). (As noted by the President, the international community also failed to prevent abuses by the National Transitional Government — despite a clear mandate under the Comprehensive Peace Agreement.)

14. During past administrations, including the National Transitional Government, civil service payrolls were enlarged as part of existing patronage networks. The Government has been hampered in its effort to restructure the civil service because it did not implement a standard approach across the Government. The Liberia Petroleum Refining Company (LPRC), a highly profitable State-owned enterprise, had the finances to provide a substantial incentive for staff severance ($1.5 million for 400 staff). In contrast, the Forestry Development Authority (FDA), with fewer resources, will provide $400,000 to 250 staff. Other, non-revenue-generating ministries will have an even more difficult time.

15. The haphazard approach to restructuring has generated serious unrest. Daily protests are common at FDA. Most noticeably, the former members of the Armed Forces of Liberia and other security agencies have engaged in sometimes violent demonstrations against restructuring. This ongoing unrest hampers the Government's ability to manage the nation's development through a professionalized civil service.

16. Development, and especially investment, is also being hampered by the lack of progress in reviewing the concessions and contracts awarded under the National Transitional Government. So far, not a single review has been concluded. (The contract with Mittal Steel was removed from the review committee and negotiated directly with the Government.) The committee, comprising representatives of both the Government and the international community, has been hindered by its leadership and process, such as a lack of clear decision-making criteria. (In addition, a conflict of interest exists, with the Chairman of the review committee also heading the Rubber Planters Association. He should recuse himself during deliberations regarding rubber concessions.) Furthermore, individual ministries and agencies have not cooperated fully by submitting contracts and relevant information for review. To end the process, the President has set a deadline of 31 December 2006 for the final review. It is not clear whether contracts that have not been reviewed will be accepted or rejected at that time.

17. Likewise, a lack of clarity in land tenure and community rights threatens both security and investment. Each month the Ministry of Lands, Mines and Energy receives hundreds of requests to settle conflicts between competing land claims. (In the review of timber concessions, FDA had awarded logging concessions that covered 2.5 times the forest area.) The Government must develop a participatory

process for reviewing and clarifying those rights, including an ombudsman empowered to hear appeals.

18. The insecurity in contracts not only inhibits investment, but it is also retarding the provision of services necessary for the development of Liberia. Recently, the Government installed streetlights in downtown Monrovia. Although it was a modest project, the psychological effect was substantial; the streets at night seemed safer. People expect the Government to deliver real change, however. Unfortunately, many Liberian elites profit from the system of corruption and undue influence and have resisted its reform. For example, the passage of the National Forestry Reform Law, required to lift timber sanctions, was almost derailed by a logger — and former militia leader — who had influenced some House members to limit foreign investment in the sector.

19. In summary, the ability to materially improve the lives of Liberians remains severely hampered by the legacies of decades of failed States. Failed States do not provide social services; rather, the Government provides civil servants and politicians with the opportunity to support their patronage networks, often based on ethnic and kinship ties, and to extract bribes and kickbacks. Likewise, citizens are accustomed to relying on patronage networks to meet their needs in the absence of a State that looks after their welfare. In particular, ex-combatants who now find themselves without means of support continue to rely on wartime networks. Many leaders of the warring factions used the National Transitional Government to maintain their networks, and they have now moved them into other economic ventures, including recruitment in Côte d'Ivoire. The Government's efforts to rebuild the failed State are undermined by competition for control of such networks. There is corruption within because many junior positions in the ministries are held by the same individuals as in previous administrations, who see reform as being against their interests.

20. Government services are further restricted by a lack of capacity for budgetary programming. Even when ministries have money, they do not necessarily have professionals who can allocate and spend the money. As an example, the Ministry of Lands, Mines and Energy complained that it could not meet the benchmarks for lifting the diamond sanctions because of insufficient resources, and yet last year it barely managed to spend half of the money allocated to the Ministry. Fortunately this last factor is easiest to fix, with training, but until it is provided, development will be crippled.

Acknowledgements

21. The Panel is grateful for the assistance provided by the Government of Liberia and by UNMIL, especially in the areas of security, logistical support and transportation, including aircraft. The Panel received useful assistance from additional local and international organizations, listed in annex I.

Standards of verification

22. The Panel used established evidentiary standards to substantiate its findings: fully authenticated documentary evidence or at least two credible and verifiably independent sources. Where appropriate, allegations against States, individuals and enterprises were put to those concerned to allow them the right of reply.

Composition of the Panel of Experts

23. The Panel of Experts consisted of a timber expert, Arthur Blundell (Canada); an expert with Interpol investigative and arms experience, Damien Callamand (France); a diamond expert, Caspar Fithen (United Kingdom of Great Britain and Northern Ireland); an expert on humanitarian and socio-economic matters, Tommy Garnett (Sierra Leone); and an expert on financial matters, Rajiva Sinha (India). Mr. Blundell was designated as the Chairman of the Panel.

II. Diamonds

24. The Panel has worked closely with the Ministry of Lands, Mines and Energy throughout its mandate in order to determine progress made by the Government of Liberia towards meeting the requirements for the lifting of the embargo on the export of Liberian rough diamonds.

25. With the assistance of UNMIL, the Panel was able to conduct overflights and assess levels of mining activity in mid-August and late October.

Current patterns of mining activity

26. While the moratorium on diamond mining imposed by the Ministry of Lands, Mines and Energy in January 2005 continues, it has been impossible for the Government to enforce this measure fully. Although the Panel remains concerned by illegal artisanal digging in Sinoe County, it commends the Ministry for bringing a stop to all class A industrial and class B semi-industrial activity in the interior.

27. *American Mining Associates*. The Panel overflew the American Mining Associates (AMA) site (latitude 7°38 north, longitude 10°34.29 west) in the Kungbor forest region of Lofa County in August. Considerable progress had been made with the construction of a substantial washing plant that incorporated a classifier and two rotary separators. The Panel visited the site by road and found that, while AMA had been very busy preparing for a resumption of mining, it had not undertaken any digging or washing activity since the visit by the Kimberley Process expert mission in May 2006. Another overflight in late October confirmed that company operations remained firmly within the constraints of United Nations sanctions and the Government embargo on mining.

28. *Italgems*. In August and October the Panel overflew the Italgems site (latitude 6°56.5 north, longitude 10°56.4 west) and is pleased to report that the site has been effectively shut down. Machinery remains either parked or in storage. The site continues to be largely deserted, with no evidence of mining activity whatsoever.

29. *Gbapa-Jungle Waters*. In August, the Jungle Waters mine, situated in close proximity to Gbapa (latitude 7°30 north, longitude 8°35 west — see S/2005/745, para. 42), was flooded, with no mining activity in evidence. However, in late October, a significant area of ground around the pit had been cleared by Caterpillar tractor, and the mine itself was in the process of being opened and drained with a dragline and pumping equipment. The Panel urges the Ministry of Lands, Mines and Energy to remind Jungle Waters of the current sanctions regime and its obligations under the ongoing mining embargo.

30. *Butaw Oil Palm Corporation.* The artisanal diamond rush in the vicinity of the Butaw Oil Palm Corporation site (latitude 5°14.67 north, longitude 9°14.93 west) continues to grow. Diamond production from the region is not especially significant, comprising some near-gem goods worth between $25 and $35 per carat and a large quantity of industrial diamonds worth in the region of $5 to $10 per carat. The Panel estimates that in total, the region is producing at most 50,000 carats per annum of low-grade diamonds. In mining terms this is fairly negligible, but given the current state of the Liberian post-war economy, the market is sufficiently buoyant to keep between 10,000 and 15,000 people in the region (including dependants), employed either directly in mining or in the provision of services to miners. In October, the Panel received reports that another substantial satellite mining camp called "Paris" had opened.

31. The Government continues to lack the capacity to deal with the Sinoe County problem. Of greatest concern is the public health risk that this situation presents. There is no provision for clean water and sanitation in these bush camps, and the humanitarian community must act quickly to prevent an epidemic of waterborne disease.

32. Class C (artisanal) mining continues to occur along the course of the Lofa River and in remote parts of Nimba County. Most of this mining represents subsistence activity on the part of small-scale diggers and presents no threat to internal security. Moreover, it would not be possible to prevent this kind of remote artisanal mining given the weak capacity of the Ministry of Lands, Mines and Energy.

33. The Panel estimates current Liberian production to be in the region of 130,000 to 150,000 carats per annum. Having consulted with the Group of Experts on Côte d'Ivoire and the Kimberley Process, the Panel believes that some of this production may have been smuggled through Côte d'Ivoire to Ghana, from where it (as well as production from Latin America) has been exported through legitimate, certificated channels to the international market. Ghana received significant criticism of its lax internal controls at the recent annual plenary meeting of the Kimberley Process in Botswana and is now under considerable pressure to rectify the situation.

Kimberley Process Certification Scheme

34. A tranche of $1.4 million designated for diamond sector reform was disbursed by the United States in January 2006. Management of this process was awarded to the United States-based Futures Group, which has a resident contractor at the Ministry of Lands, Mines and Energy to oversee and coordinate project activities.

35. Under the contract, the Futures Group is to provide the Government of Liberia with the assistance necessary for it to make a successful application to participate in the Kimberley Process Certification Scheme. The contract is set to expire in December 2006. It remains unclear whether it will be renewed.

Current status of implementation

36. The management of the implementation of reforms remains problematic, particularly with regard to coordination and cooperation. While technical assistance from the international community continues to be robust, the Government of Liberia and the Ministry of Lands, Mines and Energy must significantly strengthen their

roles in the day-to-day management and procedures required for membership in the Kimberley Process.

37. While the Government has established an inter-ministerial committee charged with coordinating the tasks required for successful implementation of the Kimberley Process Certification Scheme, as well as a high-level steering committee with the role of coordinating donor support and policy development, the Panel is concerned by the general lack of activity of these two groups. Although terms of reference for both bodies have been produced, they meet infrequently and have so far failed to develop profiles of leadership and action. It is imperative that this situation be redressed as soon as possible to provide a strong foundation of guidance and support for the Kimberley Process unit within the Ministry. The Panel stresses that responsibility for the long-term management and maintenance of the Kimberley Process Certification Scheme lies with the Government and its organs, rather than with the international community.

Internal control mechanisms

38. Subsequent to the second Kimberley Process expert mission to Liberia, from 22 to 27 May 2006, the Ministry of Lands, Mines and Energy and the Futures Group agreed to modify the proposed system of internal controls. The original system was based on the establishment of 10 regional offices, which will serve as centres for receiving, evaluating, and authenticating diamonds produced in Liberia. These offices are intended to function as clearing houses to authenticate all diamonds as having been produced in areas free of conflict. Each regional office will not only authenticate diamonds found but will also verify licences, record mining site geological data and sensitize the local population about the Kimberley Process and its importance to the economy of Liberia. The characteristics of the diamonds will be registered and they will receive an authentication voucher, which will be the minimum requirement for export clearance and a Kimberley Process certificate. A copy of the voucher will be sent to the diamond export authority, which will further verify production and authenticity prior to exportation.

39. It was the opinion of the Kimberley Process expert mission, however, that original parcels of diamonds passing through the regional offices would inevitably be broken up as they travelled "downstream" towards the point of export, rendering the tracking of diamonds along the entire chain of commerce impossible within the structure of this system. It was therefore proposed by the Kimberley Process expert mission that the system be modified to include the issuance of sales vouchers or vendor forms that record the seller, buyer, volume and value of the transaction. The system requires the registration of all actors in the chain (diggers, brokers, dealers and exporters — as stipulated under Liberian legislation for implementation of the Kimberley Process Certification Scheme and the entry of copies of the vendor forms into a national computerized, relational database that provides a platform for effective and accurate cross-checking. The database software has been obtained by the Futures Group from Partnership Africa Canada but has yet to be fine-tuned and installed. Ministry users of the software will also require training.

40. A delegation comprising Futures Group, Ministry of Lands, Mines and Energy and United States Embassy officials visited the Government Gold and Diamond Office in Freetown in mid-September 2006. The delegation studied the Sierra Leonean system of internal controls and the issuance of mining licences and

observed first-hand a functioning export authority and its vital role in the country's diamond industry. The Liberian delegation gained valuable knowledge that will be crucial to facilitating the re-entry of Liberia into the diamond industry in the subregion.

41. From 6 to 9 November 2006, Minister Eugene Shannon, Deputy Minister Fayia Kpandel and Futures Group consultant Tyrone Gaston attended the annual plenary meeting of the Kimberley Process in Gabarone. The delegation delivered a comprehensive presentation on the proposed internal control mechanism necessary for the participation of Liberia in the Kimberley Process Certification Scheme. The presentation was well received by Kimberley Process participants and observers, who pledged their commitment to continue to support the efforts of Liberia to satisfy the requirements of the Security Council and the Kimberley Process Certification Scheme.

Regional offices: implementation and deployment

42. As reported previously (see S/2006/379, para. 37), the Ministry of Lands, Mines and Energy has trained 67 mineral inspectors and 47 mining agents. Salaries, paid by the Ministry, are in the region of $20 per month. These officials will complete additional training on the modifications to the system of internal controls by mid-November. On completion of this training, they will be deployed to the 10 regional offices located at Lofa Bridge, Camp Alpha, Kavilahun, Weasua, Kakata, Ganta, Bahn, Saniquellie, Gbapa and Bomi Hills. Containers donated by UNMIL, which will ultimately house the offices, have undergone conversion (air conditioning, wiring and additional security measures) at a cost of $25,000. Six have now officially been handed over to the Ministry, but rainy-season road conditions continue to prevent deployment.

43. A number of Ministry staff have been selected for additional training in stream sediment analysis, Global Positioning System (GIS) techniques and network imagery. This training will be conducted at the Ministry's GIS laboratory in Monrovia.

Vehicles

44. The Futures Group has provided the Ministry of Lands, Mines and Energy with two four-wheel-drive vehicles and one pick-up truck. In addition, six motorcycles are currently at the United States embassy awaiting deployment. The Ministry expects that it will need considerably more motorcycles if its agents and inspectors are to operate effectively.

Kimberley Process certificates

45. The certificate prototype remains in secure storage at the Antwerp Diamond High Council. The Futures Group has sourced printing companies, in Brussels and Dubai, that are able to supply Kimberley Process certificates at short notice and at a very competitive rate. A decision was recently taken to delay printing until the embargo on exports is lifted. The Panel believes that this is a prudent security precaution.

National Diamond Authority and diamond assaying laboratory

46. The external fabric and internal structure of the new annex adjacent to the Ministry of Lands, Mines and Energy is now complete. The building has been painted and wired for electricity and a number of security features have been installed, including a safe, interlocking doors and security card readers. However, the building still lacks furnishings, computers and the equipment necessary for assaying production. The United States Government has provided very limited gemmological equipment (one set of scales and a number of loupes) that will facilitate the start-up of operations but is not adequate for full-scale operations. De Beers and the Dubai Diamond Exchange have agreed to split the cost of the rest of the necessary material, and it is hoped that it will be supplied by the end of November.

Production estimates

47. Under the terms of the Futures Group contract, a valuation assessment of diamond and other mineral production was undertaken over a two-week period in April 2006. A draft report has been completed, but the United States geologists managing its production are apparently revising the document, thereby delaying its release. The Panel hopes that this delay will end shortly; it has been assured that the final report will be available by early December at the latest.

Licensing and enforcement

48. The Bureau of Mines, a suborgan of the Ministry, has established a licensing mechanism for artisanal miners and dealers. The system awaits implementation. Moreover, licence fees have yet to be determined as part of a broader strategy for maximizing income from diamond mining and trading.

49. The Ministry has launched a media campaign to raise public awareness of the Kimberley Process Certification Scheme and warn of the penalties for illegal mining and trafficking of diamonds. Posters, radio spots and public announcements have been developed and broadcast throughout Monrovia and Robertsfield International Airport. Nevertheless, there is much to be done with regard to the sensitization of diggers, dealers, brokers and exporters to the details of the internal control mechanism.

Diamond valuation

50. Three officials from the Ministry began diamond valuation training in Kimberley, South Africa, on 2 October 2006. This training is being provided by De Beers. The United States Government and the Futures Group will provide transport and accommodations and will cover other costs associated with training. Another two officials will undertake training provided by the Dubai Diamond Exchange in Dubai in late November.

51. Arrangements for external, independent valuations have still not been made. Should the Government of Liberia choose to engage the private sector, it must issue a tender for bids as soon as possible. An alternative may be assistance from the World Diamond Council. Either way, action should be taken as quickly as possible.

Conclusion

52. While Liberia continues to make progress towards meeting the requirements of the Security Council for lifting the embargo on the export of Liberian rough diamonds, the country is not yet in a position to demonstrate the functioning system of internal controls necessary for participation in the Kimberley Process Certification Scheme. Although most of the components necessary for such a system are now in hand, they still require final arrangement into a coherent and functioning mechanism with long-term durability and credibility. Achieving this will require a push towards stronger leadership and ownership by relevant stakeholders, especially the Ministry of Lands, Mines and Energy, as well as the effective ongoing management of human, financial and material resources.

III. Timber

Status

53. The last three years of sanctions were effective in reducing the timber trade. No industrial logging was detected during overflights and on-the-ground assessments. By way of comparison, before the war, approximately three logging trucks per hour entered the port of Buchanan. In contrast, United Nations checkpoints at the port now record about three small trucks per day. According to FDA data, pre-war revenue for the sector was in excess of $100 million per year, whereas in 2006 it is approximately $4 million. This dramatic decrease occurred because logging companies removed most of their assets prior to the war to avoid being looted or destroyed. Large-scale logging never resumed, apparently because companies were unwilling to invest, given the United Nations sanctions.

54. Although there are no verified reports of sanctions violations in the past six months, the Xinhua News Agency reported on 26 October the sinking of the *Epelgain* off the coast of China's Fujian Province, claiming the ship contained timber from Liberia. The Permanent Mission of China to the United Nations corrected the report, stating that the ship was the *Ever Gain* and that it contained wood from Papua New Guinea. Liberia's National Port Authority has no record of the *Epelgain* or the *Ever Gain* visiting Liberia, nor does UNMIL.

55. In order to increase marine awareness and control, Liberia should accept an offer from Lloyd's of London to install an automatic identification system at each of the five main ports. (The system uses GPS receivers coupled with VHF radios to monitor the movement of all ships weighing more than 300 tons.)

Security

56. UNMIL controls the forest areas in Liberia. However, peacekeepers are expected to be phased out over the next three years. The new National Forestry Reform Law — passed on 19 September 2006 — establishes an excellent legal environment for Liberians to achieve control over their forest resources. However, implementation presents significant challenges. At present, the regional FDA offices are not functioning. This lack of control is allowing illegal pit-sawing (processing of logs with chainsaws) to continue unabated, although FDA is collecting fees on wood entering Monrovia. The Government has dedicated $500,000 for capital expenditures to make FDA operational, and FDA is engaged in restructuring that

will decrease staffing by half (while doubling salaries to approximately $50 a month) and focus on retraining. However, this effort is hampered by a group of employees that protest daily against the restructuring scheme.

Financial control

57. Financial reform at FDA is more advanced than staff restructuring. The controller for the Governance and Economic Management Assistance Programme prepared an unaudited financial statement for the last fiscal year, ending 30 June 2006. Control will be strengthened once a chain-of-custody management firm is appointed early in 2007. The firm will be responsible for maintaining a tracking system that follows timber from forest to export or sale to ensure that no illegal wood enters the legal supply chain and that all the forest-related fees are assessed and collected prior to export.

58. The European Commission assisted FDA in a financial audit covering 1 October 2003 to 31 January 2006. The current Board of Directors concluded that it could not certify the financial statements without note, given the evidence of corruption and incompetence during the National Transitional Government of Liberia. Although the previous Board was also liable for fiduciary oversight, it did not demand proper accounting. The Government of Liberia should consider appropriate penalties, given the previous Board's failure.

59. The results of the audit validate concerns of corruption and incompetence during the National Transitional Government period. Cash on hand was reduced by more than $20,000, and $400,000 was spent on new vehicles. FDA salaries were left 14 months in arrears; 2 months of arrears ($100,000) were incurred when the accounting staff "forgot to collect the monthly stipend" for FDA from the Ministry of Finance. At least $4,500 was paid in Board fees with no justification. Jointly, the Chief Accountant and two of his assistants are liable for spending more than $35,000 without justification. In addition, $175,720.13 was spent on "renovations and furniture" on the rental property that FDA was using for a headquarters. (There is little evidence of any renovations, and the contract appears fraudulent, as the original is dated 2005, but then was changed by hand to back-date it to 2003.) The former Managing Director is liable for more than $140,000 in unjustified expenses and receipts from the Ministry of Finance for the purchase of vehicles where no payment was made.

60. As an immediate consequence of the audit, the Managing Director prevented most of the accounting department from returning to work. In addition, FDA has refused to further compensate former Board members or the National Transitional Government's management team. FDA has asked the Ministry of Finance to assist in reviewing all the liabilities and expenditures. The Government should fire, and prosecute if appropriate, those identified in the audit as incompetent and/or corrupt.

61. In addition to these direct misappropriations, National Transitional Government managers engaged in rent-seeking, allowing loggers to pit-saw illegally. By way of comparison, in both 2004 and 2005 under the National Transitional Government, FDA collected less than $80,000 in fees from pit-sawyers, whereas in the first nine months of 2006, it collected in excess of $485,000.

62. The National Transitional Government also permitted sawmills to process abandoned logs. In one case, a $60,000 payment to FDA from a sawmill operator

was not deposited in the Central Bank. Fraud by former managers continues. In September 2006, the former deputy managing director wrote to a logger on FDA letterhead, assuring him that his company would regain its concession. Apparently, the company was using the fraudulent letter to attract investors.

Future

63. FDA must ensure that the resumption of industrial logging proceeds according to the requirements of the new forestry law. No concession can be awarded before proper land-use planning is complete and community rights have been respected. (To that end, before October 2007, the Legislature must pass a new law governing community rights with respect to forest lands through a participatory process of consultation.) Likewise, concessions must be awarded on the basis of competitive bidding, and logging cannot begin until a management plan and environmental assessment is complete. Therefore, it is highly unlikely that any industrial concessions will begin operating before the 2007 dry season. Even then, it will take some time before all the concessions are awarded — perhaps three to five years. Moreover, if the sector is to operate on a sustainable basis, harvest rates will have to be much lower than in the unregulated past. Realistically, logging will employ fewer than 10,000 workers and provide less than $20 million in revenue for the Government each year.

64. Until the industrial sector is operational, the domestic market will continue to be supplied through pit-sawing. One of the biggest concerns regards the individuals operating the sector. Given the dramatic increase in revenue since January, it suggests that the previous National Transitional Government managers, which belonged to the rebel group MODEL, were able to profit from the logging. Likewise, there is evidence that the logging is being directed by ex-combatants, such as General Kofi in River Cess. FDA is in the process of developing a strategy to deal with this informal sector, limiting it to private land. FDA should accept the offer of UNMIL to provide joint patrols, using military observers, to try to establish control over pit-sawing.

Progress

65. In December 2003 the National Transitional Government produced a road map of the reforms that it would undertake to lift sanctions. Progress towards its achievement is set out in table 1.

Table 1
Reform programmes for lifting timber sanctions prepared by the National Transitional Government of Liberia Committee to Review Sanctions on Log and Timber Trade

Reform programme	*Description*	*Completed (as at November 2006)*
Building FDA capacity	Appoint FDA Board of Directors	Yes
	Structure management, adequately compensate staff and handle logistics	Staff is undergoing restructuring — to be finished in early 2007
	Train field technicians and middle-level staff at a later date	Liberia Forest Initiative (LFI) is providing assistance
	Prepare the terms of reference and commission an independent oversight committee with a mandate to raise community awareness, supervise and review non-governmental organizations and encourage sustainable forest management	Yes — the Forest Reform Monitoring Committee
	Request technical assistance for forest and financial management	Yes, LFI has a full-time technical manager in Monrovia
Improving sector's transparency and accountability	Commissioning audit of FDA	Complete — funded by the European Commission
	Establish a system for depositing all forestry revenues in accounts directed by the Ministry of Finance at the Central Bank of Liberia	Yes — Governance and Economic Management Assistance Programme controller is in place
	Establish a system for funding FDA accounts with CBL based on budget allocation of quarterly transfer of funds from GOL accounts based on standing instruction	Yes — Governance and Economic Management Assistance Programme controller is in place
	Design a system for separate receiving and disbursing of reforestation and conservation fees	In preparation
	Establish a system of reporting and making information accessible to the public	No
	Set up an independent oversight committee	Yes — Forest Reform Monitoring Committee
Concession review	Recall and review all existing concession agreements	Complete — demonstrated widespread non-compliance, multiple contracts granted to the same concession areas, no contract met all the legal requirements to operate
	Impose penalties on companies violating sanctions	Illegal logging is occurring

Reform programme	*Description*	*Completed (as at November 2006)*
	Prepare addendum to concession agreements reflecting conservation policies and environmental policies	In preparation with technical assistance from LFI
Conduct a forest inventory	Ground-truthing field surveys and maps from Geographic Information System	A basic inventory has been conducted
	Determine the potential value of forest resources (timber and non-timber forest products)	A basic inventory has been conducted
	Provide information for monitoring, taxation and enforcement	In preparation with technical assistance from LFI
Park protection and development	Reconstruction of Sapo Park infrastructure	Yes; a few illegal miners have returned to Sapo Park
	Provide equipment and materials for park management	Yes
	Train and deploy park personnel	Yes
Mobilize technical and financial assistance	Participate in donor meeting and other promotional activities	Yes
	Discuss bilateral arrangements	Yes

Conclusions and recommendations

66. Sanctions were generally effective, although the domestic industry continues illegal pit-sawing. FDA should not be placed under undue political pressure to ignore the provisions of the National Forestry Reform Law. Implementation must include the passage of a new law governing community rights, and the Government must establish a commission to tackle tenure and land-use issues.

67. In order to send a clear message that the culture of impunity is over, the Government of Liberia must hold accountable those who committed crimes, including fraud and misappropriation of timber revenues. At the very least, those identified in the European Commission audit must be fired and must not receive any severance package unless they can clearly show that they were forced to engage in fraud.

68. Likewise, in accordance with the President's statement of July 2006, no person or company should receive any new contracts or concessions if they have arrears with the Government. Therefore, no loggers should receive a new concession until they have paid all their back taxes and fees, in addition to a penalty.

69. International buyers must accept responsibility too. To that end, the European Commission should sign a voluntary partnership agreement with Liberia to ensure that only legal timber is exported and that trade does not fund conflict. Other buyers, especially large importers such as China, should become partners to the agreement.

IV. Socio-economic and humanitarian impacts of sanctions

Overview of the humanitarian situation

70. The post-war humanitarian needs in Liberia are huge. Prior to the imposition of timber sanctions in July 2003, well over 450,000 Liberians were displaced as refugees in neighbouring Côte d'Ivoire, Guinea, Sierra Leone and beyond, according to the Office of the United Nations High Commissioner for Refugees. An additional 350,000 were internally displaced, and a further estimated 101,000 were combatants of the various warring factions. The health and education sectors were devastated, as facilities were destroyed and staff were killed or displaced. Infant and maternal mortality was estimated as one of the highest in the world, at 157 per 1,000 and 580 per 100,000 live births respectively, according to the United Nations Children's Fund, while the national literacy rate was thought to be around 30 per cent.

71. The mismanagement of resource-rich areas due, in part, to unclear and conflicting laws and ownership titles continues to provide opportunities for the illegal exploitation of resources (illicit diamond mining and chain-sawing of timber), representing a continuation of wartime practices and impeding the development of good governance and sustainable environmental management.

72. Furthermore, within the region, massive unemployment, especially among youth, and the availability of small arms, existing alongside pervasive poverty, food insecurity and collapsed health and education systems all represent distinct risks to the peace process in Liberia.

73. Already there are concerns among civil society groups, in particular the Coalition of National and Community-based Environmental Organizations, about inadequacies in the new forestry law, arguing that the drafting of the law was not informed by a public policy debate on the vision for Liberia's forests and that it places too much emphasis on industrial, concession-based logging, which is not the most appropriate form of forest management for protecting community rights. The Coalition argues that there are no clear examples of forest-rich countries in Africa where industrial-scale concession-based logging has significantly contributed to poverty alleviation. In contrast, in Cameroon and Ghana, industrial-scale logging for export has contributed to social conflicts and environmental destruction, without providing clear economic and social benefits for the country and its people.

74. The Forest Reform Monitoring Committee, which drafted the new law, is aware of the inadequacies in the treatment of land tenure in Liberia. (For example, each month the Ministry of Lands, Mines and Energy receives hundreds of requests to resolve conflicting land claims.) In a letter to the President, the Committee wrote:

> The solutions required to mitigate land tenure issues far outreach the scope of this Committee, therefore it is our recommendation that the Executive establish a National Land Tenure Commission.

The Committee is also aware of the dangers of opening up forests for logging before tenure issues have been resolved. Consequently, it recommended a review of all land tenure procedures to determine whether they reflect a fair and equitable process by which communities can maintain legal tenure over their resources and a moratorium on establishing any more deeds, large-scale contracts or other land-use actions until the issues of land tenure have been addressed.

75. A recent socio-economic analysis published in the Comprehensive Food Security and Nutrition Survey report (October 2006) by the Government of Liberia and its international partners revealed that 86 per cent of households across the country had been displaced at least once since 1989 and that most had returned between 2003 and 2004. The survey found that 68 per cent of households had no access to improved water sources and 76 per cent had no access to sanitary facilities.

76. For people living outside of cities, most households rely on one source of income: food crop production (15 per cent), palm oil production (14 per cent), petty trading (12 per cent), casual labour (10 per cent), rubber tapping (7 per cent), charcoal production (7 per cent), hunting (5 per cent), fishing (4 per cent), skilled labour (3 per cent) and other (3 per cent). Only 5 per cent are formally employed. Some 8 per cent of households combine palm oil and food crop production, and 6 per cent combine food production with other cash-generating activities. In terms of cash availability, households relying on petty trade, regular salaries or casual labour are relatively better off than the other groups, and households depending on palm oil production and hunting are the worst off.

77. While 66 per cent of households reported having access to agricultural land, only 73 per cent of them cultivated crops in 2005. Many cited animal pests and the lack of seeds, tools, financial capital and household labour as key constraints. Some 11 per cent of households are considered food-insecure and an additional 40 per cent are highly vulnerable to food insecurity. A further disturbing finding is that an estimated 39 per cent of children under 5 are affected by stunting (an indicator of chronic malnutrition), with critical malnutrition rates affecting more than 40 per cent of children in 9 of the 15 counties, according to the World Health Organization.

78. Among adults, 31 per cent of men and 62 per cent of women have never attended school. Currently 69 per cent of school-aged children (6-18) are enrolled. Girls have much higher dropout rates from age 13 on. Many children attend grades below their actual age group, as they are still catching up, a reflection of the years lost during the conflict.

79. According to the United Nations Development Programme National Human Development Report on Liberia for 2006, the country's economy presently operates at about one third of its pre-war level, with a gross domestic product (GDP) of less than $500 million, compared to over $1 billion in 1988. Other social and economic indicators are performing poorly, with all on the decline. The agricultural sector, considered crucial to Liberia's economic and social recovery, remains largely in ruins, as most farming areas continue to be severely affected by the longer-term effects of the conflict, most especially the displacement of farming families, which are only now returning and have to cope with the appalling road conditions, a lack of basic social services, shortages of shelter and no regular income.

80. The mining sector collapsed from a relative 12 per cent share of GDP in 1988 to 0.082 per cent in 2004. Over the same period, the tertiary services sector dropped from 50.5 per cent of GDP to 17.4 per cent. Manufacturing stalled and exports were down to $25 million, a sharp contrast from the pre-conflict level of $460 million. Unemployment remains high at 85 per cent, and the visible evidence of deteriorating living conditions and quality of life of most Liberians is disheartening.

81. The debt burden of Liberia relative to GDP is crippling. The national debt was $3.7 billion as at July 2006, with about 90 per cent owed to external creditors. At current prices, the external debt is seven times GDP. Inflationary pressure is increasing despite very low and stagnant wages. From 1997 to 1999 annual inflation fluctuated between 4 and 7 per cent. By 2003 this had more than doubled to 15 per cent. All the indications are that inflation will continue to increase given the rising oil prices and the need to import nearly all essential commodities, including building materials and rice, the major staple food.

Impact assessment findings

82. The Panel undertook monitoring visits to timber-producing areas and nearby economic centres, in Grand Bassa, River Cess and Sinoe Counties, and refugee centres in Côte d'Ivoire, Guinea and Sierra Leone. The Panel also interviewed several expatriate and national humanitarian relief workers, Government employees, refugees and other civil society groups throughout Liberia and reviewed all county profiles prepared by the UNMIL civil affairs section. Severe data and statistical limitations are the norm, making accurate evaluation of programmes practically impossible, hence the reliance on estimates and broad assumptions.

83. The monitoring visits and interviews examined the socio-economic impacts of the sanctions; levels of economic activity; security and civil administration; the extent of humanitarian relief available; the status of rehabilitation of community infrastructures; ongoing repatriation and resettlement of returnees; and the extent of skills training and income-generating programmes for ex-combatants and returnee communities, including significant numbers of former employees of the logging industry. The findings of previous assessments served as a baseline.

84. Apart from the jubilation and high expectations for the revival of local economies in timber-producing areas brought about by the lifting of the timber export ban, little had changed in the social and economic circumstances of the people living in those areas. The poor and deprived socio-economic conditions, described earlier in the present report, continue to prevail.

85. In debating the impacts of sanctions, it is important to bear in mind that the key factors that led to the collapse of Liberia's economy were gross abuses of the country's social capital and the mismanagement, misuse and illegal exploitation of the natural resources spanning decades. In addition, poor governance across many of the State institutions weakened the capacity of successive Governments to provide an effective administrative presence throughout the country, resulting in weak enforcement of the rule of law, poor-quality education and inadequate delivery of social services. The exodus from Liberia of the brightest minds, skilled workers and conscientious investors began long before the imposition of the diamond and timber export bans.

86. It is also noteworthy that in the National Transitional Government period following the imposition of timber sanctions, there were high expectations that determined efforts to lead the post-war recovery process in close partnership with the international community would yield positive dividends and prompt the early lifting of sanctions. It did not take very long for the Liberian public and donors to recognize, however, that the National Transitional Government was governed by factional politics and consisted mostly of opportunistic individuals who failed to prioritize public interest, but rather focused exclusively on personal gain, as

evidenced by such questionable deals as the sale of stockpiled iron ore, the flawed West Africa Mining Corporation and Mittal Steel contracts and the ECOWAS investigation of the National Transitional Government (see paras. 139-143 below).

87. Focus group discussions were held in which community meetings were convened in timber-producing areas and refugee centres in Cote d'Ivoire, Guinea and Sierra Leone to see the Liberian people's perceptions of the positive and adverse impacts of the sanctions. Local authorities, former logging company employees and public opinion leaders were always present at the meetings. The findings of the focus group discussions and interviews are summarized below.

88. The sanctions played a decisive role in ending the war by blocking access to the resources that fuelled the conflict, thereby forcing the various parties to reach a negotiated settlement and laying the foundations for comprehensive reforms in the diamond, timber and other sectors.

89. This helped to drastically reduce human rights violations, which characterized the entire period of conflict, thus opening up the rest of the country to the real possibility of building lasting peace, as evidenced by the successful democratic elections and ongoing efforts to re-establish the rule of law.

90. The sanctions have allowed successive panels of experts to investigate and report on the various individuals, institutions and private entities whose activities have in various ways contributed to instability in the country and subregion and the dire situation in which the country now finds itself. Such exposures have helped to promote the efforts of the Government of Liberia and the international community to take measures to minimize or prevent such occurrences in the future.

91. The sanctions compelled humanitarian relief agencies to extend their activities to timber-producing areas previously considered to be outside of their focus of operations as they believed that logging companies provided (part of) those services. Even before the war, over 90 per cent of social services were provided or paid for by relief and development agencies. In the few cases where logging companies did provide some basic social services, such as the Oriental Timber Company hospital in Buchanan, their departure left a gap, which was filled by national and international non-governmental organizations and bilateral organizations, such as the International Committee of the Red Cross. The timber concession review, which was mandated by the Security Council, documented that most logging companies were not providing adequate levels of those services, and certainly not to the extent many claimed.

92. Ongoing sanctions contributed to the loss of revenue to the Government through taxes and fees. Had the sector continued at 2002 rates, this could have amounted to as much as $20 million per year. The war halted all industrial logging, however. Furthermore, prior to the war, logging was virtually unregulated, and the Government failed to collect most of the taxes and fees owed by companies. The concession review found that loggers were $64 million in arrears.

93. Sanctions contributed to the loss of employment for an estimated 5,000 to 8,000 employees in the timber sector and had a ripple effect on their direct and indirect dependants, estimated at 10 to 15 per employee. However, most of the work was seasonal, and the better-paid skilled positions were held by foreign workers.

94. Sanctions also led to the deterioration of roads previously maintained by logging companies, which drastically increased the cost of road maintenance borne by the humanitarian relief agencies, especially United Nations agencies, in their efforts to create enabling conditions for the safe return of refugees and internally displaced persons and the delivery of aid to rural populations. For example, the Office of the United Nations High Commissioner for Refugees allocated 25 per cent of its annual budget of $39 million for 2005 on transport and logistics alone.

95. The stigma of sanctions may have deterred foreign investment after the conflict. Certainly logging companies have failed to reinvest. Long before sanctions were imposed, however, most legitimate foreign investment in Liberia had ceased and the industries collapsed as a result of the escalating conflict.

96. The vacuum left by the departure of industrial loggers was filled by the mushrooming of illegal small-scale pit-sawing operations, which, despite providing self-employment and income directly or indirectly for 1,000 to 3,000 Liberians, is depriving the Government of much-needed revenue and contributing to deforestation.

Observations and recommendations

97. The Panel, through its many interviews, received some positive feedback about the effectiveness of the Governance and Economic Management Assistance Programme in increasing revenue from State-owned enterprises during the past six months compared with the same period in 2005. Concerns already abound, however, regarding the numerous ways in which corrupt officials beat the system. This and the slow pace of civil service reforms, hampered by severe financial and human resources constraints, could potentially undermine the Programme and subsequently the Government's capacity to provide social services.

98. The Panel recommends that the Government of Liberia and its international partners employ all possible measures to speed up the construction and rehabilitation of road networks and other public infrastructure. This will provide urgently needed employment opportunities for thousands while creating enabling conditions for the delivery of development aid and the provision of social services to rural Liberia. Improving the roads will also increase access to markets by rural farmers, thus providing the urgently needed incentives for increasing agricultural production and stimulating further investment in the sector. A vibrant agricultural sector could significantly relieve the pressure on the logging industry, which many Liberians believe is the solution to the country's high rate of unemployment.

V. Finance

99. The misappropriation of revenue and its use in financing conflict was a major reason for sanctioning diamonds and timber. The Security Council insists that Government revenue be "used for legitimate purposes for the benefit of the Liberian people, including development" (resolution 1521 (2003), para. 11). Thus, good governance and stable Government finances are critical to the lifting of sanctions.

100. The financial position of the Governance of Liberia has been slowly but steadily improving since its inception in January 2006. The Government's credibility was further enhanced by the implementation of the "150-Day National

Action Plan", which resulted in the restoration of street lights and the provision of water to at least selected areas of the capital and, less visibly, improved tax administration and other advances discussed below. The recruitment of independent financial controllers under the Governance and Economic Management Assistance Programme in the Ministry of Finance and major State-owned enterprises has also ring-fenced the major sources of Government revenue. In September 2006, the International Monetary Fund (IMF) estimated real GDP growth of about 8 per cent in 2006, a big jump from 5.3 per cent in 2005. There are several areas of weakness in the governance system, however, such as a difficult relationship between the executive and the Legislature, a lack of effective legislative financial oversight, weak internal control systems leading to a situation in which most of the expenditures for fiscal-year 2005 occurred in the last month, ineffective functioning of the Auditor-General's office, leading to lack of accountability, little or no action against corrupt ex-ministers/officials and a fragile judicial system.

Recast budget

101. Immediately after its inauguration, the new Government recast the budget for the period from February to June 2006, initiating a series of actions to strengthen financial management. This led to a robust increase in revenue: against an estimate of $38.85 million, the Government collected $44.26 million.[1] This is an increase of 13 per cent over the same period in 2005. The prime sources of revenue were customs duties, maritime collections, income tax and corporate tax (see table 2).

Table 2
Major sources of revenue collected during the recast budget period (February-June 2006)

(Millions of United States dollars)

Revenue source	*February-June 2005*	*Budget estimate*	*Amount collected*	*Variation (Percentage)*
Customs duties	14.32	16.71	19.59	17
Maritime revenue	2.78	4.50	4.50	—
Corporate tax	11.49	5.54	4.49	(-)19
Income tax	3.73	6.57	7.73	17
Grants	—	—	1.00	
Other	6.67	4.53	6.95	53
Total	**38.99**	**38.85**	**44.26**	**13**

102. The new Government, however, had problems in spending, which left more than 50 per cent of the budget to be spent in the last month — June — of the recast budget period. The Cash Management Committee, which oversees expenditures and is composed of the Government of Liberia and the international community, kept clearing proposals until the last day of the budget period, leading to the cashing of a

[1] This excludes a one-time payment in February 2006 of $1.86 million of maritime revenue that was collected in November-December 2005. In December 2005, President-elect Johnson-Sirleaf had requested Liberian International Ship and Corporate Registry LLC to withhold this payment until after the departure of the National Transitional Government.

large number of cheques in the next financial year, namely, in July and August 2006 ($13,412,885, or 30 per cent of the recast budget). IMF estimated that, on a cash basis, only $31.7 million had been spent by 30 June 2006, leaving the Government account at the Central Bank of Liberia with a cash balance of $19.5 million as at 30 June 2006.

103. The Government presented a preliminary budget performance report, on 5 September 2006. The report could not confirm the actual expenditure for the 2005 fiscal year, as it stated that the situation was still fluid and the cheques drawn up to 30 June had not yet been cashed.

104. Furthermore, because the budget performance report submitted to the Legislature was not audited by any independent auditor or the Auditor-General, it had many shortcomings, namely:

(a) It did not include the receipt of grants of $4 million from South Africa and $1 million from China;

(b) It did not take into account the opening balance of $1.97 million, which was available to the National Transitional Government on 1 July 2005;

(c) There were discrepancies in reports from different agencies within the Government. For example, while the Ministry of Finance claimed that it had given $390,365 to FDA, FDA in its accounts claimed that it had received $438,008 during the same period;

(d) Given these shortcomings, the estimated surplus of $2.59 million as at 30 June 2006 is unlikely to be correct.

105. Likewise, given that the annual accounts of the individual ministries and agencies has not been prepared and audited by the Auditor-General, it is not clear how the Legislature can satisfy itself that the Government is managing the budget that it approved. Indeed, the large-scale reappropriation of funds without the prior approval of the Legislature continues (see table 3). The Legislature is considering a bill to ensure that the executive seeks its approval prior to increasing the budgetary allotment of any ministry or agency by more than 10 per cent once the budget has been adopted.

106. At present, more emphasis is being given to the release of funds than to performance and value for money. For example, although the Government of Liberia spent nearly $5 million on education during the recast budget period, it is not known how many new schools were opened, how many new students enrolled and how many new teachers were appointed. Similarly, in the area of health, hospitals are virtually non-existent, particularly in rural counties. The Ministry of Lands, Mines and Energy barely spent half of its allotment, although it has been citing funding constraints as one of the main reasons for its inability to comply with the Kimberley Process Certification Scheme.

Table 3
Expenditures during the recast budget period (February-June 2006)

(Millions of United States dollars)

Ministry/agency	*Budget estimate*	*Actual expenditure*	*Percentage increase/decrease (-)*
Salary arrears	8.464	5.351	63 (-)
Education	3.389	4.932	45.5
Legislation	3.226	4.038	25.2
Defence	1.373	2.995	118.1
Justice	4.383	2.397	45.3 (-)
Presidential affairs	1.827	2.303	26
Judiciary	1.642	1.981	20.7
Liberia Electricity Corporation	0.5	1.498	199.6
Finance	1.159	1.346	16.2
Health	1.784	1.251	29.9 (-)
Public Works	1.128	0.956	15.3 (-)
Liberia Water Supply Corporation	0.075	0.553	637
Agriculture	0.417	0.350	16 (-)
Lands, Mines and Energy	0.422	0.241	42.8 (-)

2006/07 budget

107. The Government of Liberia submitted a cash-based, balanced budget for 2006/07 to the Legislature on 29 June. The Legislature passed the budget on 22 August, seven weeks after the start of the fiscal year. The large increase in revenue during the recast budget period emboldened the Government to strive for growth in revenue of 43 per cent, to $120.9 million in 2006/07. The new budget provides for an increase in the salaries of the lowest-paid civil servants to $30 per month. It also provides for substantial increases in allocations for the Legislature (to $9.0 million), the Ministry of Justice ($7.8 million), the Ministry of Education ($10.0 million) and the Ministry of Health ($7.5 million). The allocation for the Ministry of Public Works has been trebled to $5.5 million. There has been tenfold increase to $3.0 million for the Ministry of Agriculture.

108. However, without planning, and given the lapse of two months in the passage of the budget, it is doubtful whether the proposed allocations will be spent within the budgetary period.

Major sources of revenue

Table 4
Major sources of revenue collected during calendar years 2004-2006

(Millions of United States dollars)

Revenue source	*2004*	*2005*	*2006 (January-September)*
Customs duties	25.403	27.973	32.740
Maritime revenue*	12.765	10.657	7.989
Corporate tax/income tax	26.105	36.858	33.880
Petroleum levy/sales tax	4.134	3.281	5.312
Grants/loans	1.000	4.000	1.000
Total	**69.407**	**82.799**	**80.921**

* 2005 figure includes (and 2006 figure excludes) maritime revenues of $1.86 million transmitted by the Liberian International Ship and Corporate Registry LLC in February 2006, which were collected in November and December 2005.

Customs revenues

109. Customs duties accounted for nearly 44 per cent of the total revenue of the Government of Liberia for the recast budget period, demonstrating a moderate rise over the past two years, despite large numbers (many illegal) of exemptions, waivers and duty-free petroleum supplies. At present, almost all duties are collected at the Freeport of the National Port Authority in Monrovia and at Robertsfield International Airport. Negligible duties are being collected from three other ports, at Buchanan, Greenville, and Harper.

Refund of misappropriated pre-shipment inspection fees

110. The Panel has documented that BIVAC International had withdrawn all the pre-shipment inspection fees, amounting to $278,000, from their accounts at the TRADEVCO bank when it was liquidated in 2004 (S/2005/745, para. 95). In the previous report (S/2006/379, para. 105), the Panel reported that BIVAC had agreed to refund the Government's share of the pre-shipment inspection fees. (According to the BIVAC contract for 2003, the Government is entitled to approximately 20 per cent of pre-shipment inspections fees.) In June 2006, BIVAC refunded $8,343. Pressed again by the Panel in October, BIVAC agreed to refund $56,000. However, BIVAC has not furnished any accounts for 2003 to verify that this is the correct amount due to the Government. It is not clear whether the Government will assess either penalties or interest.

Pre-shipment inspections of rice and petroleum imports

111. Pre-shipment inspections of rice and petroleum commenced in January 2006. However, the appropriate methodology for petroleum inspections was still being studied. Indeed, the Ministry of Finance is allowing the customs service to release shipments of petroleum without having BIVAC certificates or paying import duties (see paras. 117 and 118 below).

Problems with rice imports

112. In July 2006, when importers wanted permission from the Minister of Commerce to import rice at inflated rates ($22-$25 per bag), the Government intervened and organized all imports through a new Liberian firm, in effect creating a monopoly. The situation has not changed, even though the Legislature asked that all importers be allowed to import the rice. The Minister of Commerce has since agreed to reopen the market in February 2007. The importers, however, claimed that the Ministry did not advertise the policy before taking such drastic action. It is hoped that the Government will adopt a liberalized rice import policy wherein all importers are allowed to compete in an open market.

Liberia Petroleum Refining Company

113. In the first nine months of 2006, LPRC earned a profit of $3.4 million on revenue of $9.4 million, owing primarily to a reduction in manpower and a robust increase of 17 per cent in the import of petroleum products.

Contract for supply of crude oil

114. In June 2006, LPRC entered into a one-year contract with the Nigerian National Petroleum Corporation to buy 10,000 barrels of crude oil a day. Despite its name, LPRC is not in position to refine the crude oil. Thus, in August 2006, LPRC sold the contract to Addax Ltd, the largest independent oil producer in Nigeria, at the rate of 14 cents a barrel. The contract, worth $0.5 million, was awarded without any competitive bidding. When the Panel sought clarification as to how the firm and price were determined in the absence of competitive bidding, the Managing Director of LPRC said it was not possible to call for bids in such situations because of the lack of time. He stated that the transaction had been handled by himself and one of Liberia's ambassadors-at-large, and that the order had been given after the LPRC board had approved the sale. However, the minutes of board meetings dated 1 and 4 August indicate that the board had been informed of the selection of the firm and the price only after the firm and the price had already been determined.

Low import duty receipts from petroleum importers

115. In previous reports (S/2005/360, para. 154, and S/2006/379, para. 97), the Panel documented substantial missing revenue from import duties and sales taxes due from petroleum importers in 2004 and 2005. Although the new Government has seen payments from importers rise from $3.45 million in 2005 to $5.31 million in the first nine months of 2006, receipts still appear to be much lower than expected.

116. Excluding tax-free imports by UNMIL, imports reported by LPRC between January and September 2006 suggest that, at the applicable duties and sales tax, imports would have generated $15.39 million for the Government (see table 5). The Government collected only $5.31 million during this period, however. Even if 20 per cent of the petroleum imports were tax-free supplies to embassies, charities, non-governmental organizations and the like, there appears to be a shortfall of about $7 million in duties and taxes collected.

Table 5
Petroleum imports (1 January-30 September 2006)

Importer	*Volume (gallons)*				*Import duties/sales tax payable (Millions of United States dollars)*
	Gasoline	*Diesel*	*Kerosene*	*Jet fuel*	
West Oil[a]	3 578 963	5 329 718	99 277	—	3.782
Monrovia Oil Transport Corp.	3 663 173	5 128 133	414 493	—	3.865
Srimex	3 191 292	1 659 320	—	—	2.100
Aminata	2 725 885	2 276 052	—	—	2.137
Origin Oil	2 294 151	1 299 045	—	—	1.552
Total[a]	686 586	573 457	182 908	1 000 857	1.012
Gulf Trading	912 380	1 335 813	—	—	0.945
Total	**17 052 430**	**17 601 538**	**696 678**	**1 000 857**	**15.393**

[a] Excluding tax-free supplies for UNMIL.

117. When the details of individual importers were examined, it appeared that some had been able to lift their petroleum products from LPRC without paying their arrears. For example, Musa A. Bility, the Chairman of the Board of Directors of the National Port Authority and owner of two petroleum import companies, Srimex Enterprises and Gulf Trading, imported more than 7 million gallons of petroleum through those two entities during the first nine months of 2006, despite having paid only $125,000 of the about $3 million due for this period. In October, Mr. Bility promised to pay his arrears within two weeks. As of mid-November, he had paid $0.75 million.

118. The Managing Director of LPRC said that the Corporation had no instructions from the Government to ensure that arrears were paid before any product was released to importers. The BIVAC scheme for pre-shipment inspections requires, however, that imports be released only when importers produce the tax receipts along with a clean report of findings from BIVAC.

Missing Liberia Petroleum Refining Company storage charges

119. In our previous report (S/2006/379, paras. 95 and 96), the Panel documented that LPRC had given undue benefit to one importer, West Oil, by undercharging it for storage fees for the period from 1 July 2004 to 31 December 2005. LPRC confirmed in November that it would try to recover $721,630 from West Oil, which represents the short-billed amount.

Misappropriation of revenues as dividend or contribution to the National Transitional Government

120. In previous reports (S/2005/360, para. 153, and S/2006/379, para. 100), the Panel cited numerous instances under the National Transitional Government in which LPRC had been instructed to release funds to specific authorities without routing the funds though budgetary provisions or the Ministry of Finance. In a

communication to the Sanctions Committee Chairman in July 2006, Charles Gyude Bryant, the Chairman of the National Transitional Government, claimed that he had not received any of those payments (see table 6), totalling more than $400,000.

Table 6
Cash withdrawals from LPRC bank account allegedly for travel by the National Transitional Government Chairman

Dates	*Purpose for withdrawal*	*Amount (United States dollars)*
8 February 2005	Nationwide tour by Chairman Bryant	14 000
16 February 2005	Tour of south-eastern region of Liberia by Chairman Bryant	100 000
3 March 2005	Tour of south-eastern region of Liberia by Chairman Bryant and Speaker of National Transitional Government	49 800
23 March 2005	Tour of northern region of Liberia by Chairman Bryant	75 000
9 May 2005	Tour of United States by Chairman Bryant	65 000
17 May 2005	Tour of United States by Chairman Bryant (additional payment)	60 000
12 January 2006	To facilitate the trip by Chairman Bryant to the Niger	100 000

121. On 13 November 2006, the Panel met with Chairman Bryant and showed him the vouchers and the approval of the then-Managing Director of LPRC, Edwin Snowe, for withdrawal of the funds. Chairman Bryant categorically denied having received the money in all cases.

122. In addition to those payments, the Panel found four other large cash withdrawals (see table 7), totalling almost $130,000, for payment to lobbyists to help prevent the National Transitional Legislative Assembly from passing legislation to remove the exclusive power of LPRC to import petroleum products.

Table 7
Alleged payments to lobbyists by the Liberia Petroleum Refining Company

Dates	*Amount paid (United States dollars)*
9 August 2004	50 000
27 August 2004	19 500
5 October 2004	10 000
15 December 2004	50 000

123. Furthermore, two additional dividends were reported as having been paid to the National Transitional Government ($110,000 and $65,000 on 17 and 29 December 2004 respectively). However, the Central Bank of Liberia reports the deposit of only $100,000 in February 2005.

124. The present Managing Director of LPRC confirmed that all the above-mentioned funds had been drawn from the bank and that the money had been handed over to the former Managing Director or his nominees by the cashier. (Examples of the vouchers are provided in annex IV.)

125. Because all cash withdrawals had been approved by the former Managing Director, the Panel met with Mr. Snowe to allow him the right of reply. He said that the payments had been made in cash or in kind, such as cars, depending on the instructions given by Chairman Bryant. He also stated categorically that all the vouchers were genuine and that in each case the money had been withdrawn and given to Chairman Bryant. When the Panel asked whether he had obtained the receipts from the Chairman, he stated that the conditions were such that if one had asked for receipts, that person would have lost his job.

126. In view of the contradictory statements of Mr. Snowe and Mr. Bryant, the Panel recommends that the President of Liberia order an immediate investigation and all appropriate legal action. The Panel further recommends that all donations/contributions made by all State-owned enterprises to National Transitional Government functionaries be investigated, including whether vehicles and other equipment have been properly returned to the Government.

Maritime and corporate revenue

127. The Bureau of Maritime Affairs continues to be an important source of revenue for the Government. The Ministry of Finance reported that the Liberian International Ship and Corporate Registry LLC (LISCR) (the agent that manages the Liberian shipping and corporate registry) had remitted $9.85 million from January to September 2006, which compares favourably with $8.80 million in all of 2005. However, of the $9.85 million, $1.86 million was actually collected in November and December 2005; it had been withheld by the agent, on the instruction of the president-elect, to be delivered once the term of the National Transitional Government had ended.

128. In its resolution 1408 (2002), the Security Council demanded an audit of the shipping registry. In 2006, Moore Stephens conducted an audit for the period 2001-2005 in which it documented that, although LISCR has the reputation of being run on a professional basis, cash remittances to the Government of Liberia had steadily declined over the five-year period (see table 8). The agent claimed that the maritime tax rate structure had been reduced in 2000 with the concurrence of the Government of Liberia to make the registry more competitive with other shipping registries. This, along with the negative publicity surrounding the conflict in Liberia, probably contributed to reduced revenue.

Table 8
Revenue from maritime and corporate registry
(Millions of United States dollars)

Revenue source	*2001*	*2002*	*2003*	*2004*	*2005*
1 Total registry revenue (2+3)	29.9	30.3	28.00	30.5	30.7
2 Maritime revenue of the registry	24.7	25.8	24.1	26.7	26.9
3 Corporate revenue of the registry	5.2	4.5	3.9	3.8	3.8
4 Cash remittance to the Government of Liberia	12.4	12.1	11.9	11.1	10.5
5 Revenue from maritime programme for the agent	2.1	1.9	1.8	1.9	1.8
6 Revenue from corporate programme to the agent directly	11.2	9.1	8.5	8.5	8.7

129. A subsidiary of LISCR, the LISCR Trust Company (LTC), a Liberian-registered corporation, is the exclusive registered agent of non-resident corporations. The registered agent fees collected by LTC are not accounted for in its books and, as a result, LTC does not pay taxes on them in Liberia. LISCR claims that LTC pays taxes not in Liberia but in the United States, given that LTC operates the registry there. However, in the LTC financial statements for 2001-2005, there is no disclosure. The Government of Liberia should investigate whether it is appropriate for LTC to follow this practice.

Apportionment of operating costs

130. LISCR and the Liberian registry for which it acts as agent share certain costs to support their mutual missions. The amount LISCR has paid for its apportionment of operating costs has fluctuated over the past five years (see table 9).

Table 9
Apportionment of operating costs paid by LISCR (2001-2005)
(United States dollars)

Year	*Apportionment of operating costs*
2001	1 438 680
2002	1 486 000
2003	800 000
2004	491 000
2005	700 000

131. The agent opened an independent office in the same building as the remainder of the registry operation in January 2004, moving certain executives, support staff and the corporate registry staff. This was described in a note to the 2004 audited financial statement, included as justification for the decrease in the overhead costs apportioned to the agent between 2003 and 2004.

132. During a review of the audited statements in November 2006, the Panel discovered that the same note was reproduced in the 2003 report also, to provide justification for the decrease in overhead costs from $1,486,000 in 2002 to $800,000 in 2003. When the discrepancy between the date of the office move and the decrease in expenses for 2003 was brought to the attention of the agent in early November, LISCR had the auditors amend the financial statements by deleting the paragraph from the report that gave this disclosure and reissued the report.

133. The agent states that it reduced its computed share of the operating expenses in 2003 because it had been more than its fair share from 2000 to 2002 during the Taylor regime. The vague provisions of the payment process suggest that the Government should revisit the agreement and determine an apportionment that is fair and practical for all parties.

Transitional expenses

134. In 1999, the Bureau of Maritime Affairs changed the agent running the shipping registry. As part of the move, the Bureau agreed to pay all reasonable transition expenses approved by the Commissioner, as defined in the agreement

between the agent and the Government. The Commissioner approved a budget in May 1999 for $2.75 million in transitional expenses. But by 2001, the Government had been reluctant to pay any of the expenses. Effective 31 December 2000, LISCR wrote off the entire $2.75 million, with the auditors agreeing that reimbursement was unlikely.

135. LISCR deducted $1.3 million in 2002. In 2005, LISCR withheld $762,694 as transitional expenses, with the concurrence of the Deputy Commissioner for Financial Affairs and Maritime Controller, Garrison F. Togba. The withholding has continued in the "2006 operation budget for the Registry" as submitted to the Bureau through its current Maritime Controller. As at November 2006 there remained an outstanding liability of only $16,240.

136. LISCR maintains that further approval from the Commissioner was unnecessary, as the 2000 agreement with the Bureau of Maritime Affairs remains valid.

137. The agreement provided for joint control by the Government of Liberia and the agent over maritime funds in the special accounts, but this system was relaxed during the period of the National Transitional Government. The Panel recommends that the provisions for control be strictly followed and that major decisions should be taken with the prior consent of the Government only.

138. The Government should review the contract for the maritime and corporate registry with the agent so as to include all revenue in a consolidated account, which, after all expenses are deducted, should be shared according to a prescribed ratio by the Government and the agent.

Audit by the Economic Community of West African States

139. The final report of the ECOWAS investigation into allegations of corruption in the National Transitional Government was finally released in July 2006, even though it had been submitted by ECOWAS in June 2005. The report is an indictment of the National Transitional Government's financial management "that leaves little or no trail in Government transactions and recklessly sacrifices financial probity on the altar of appeasement to defunct warring factions and ex-combatants".

140. More specifically, the investigators found that the former Minister of Commerce, Samuel Wlue, should be held liable for the loss of $109,450 resulting from the sale of forms related to imports and exports and for the use of funds amounting to $445,103 that should have been deposited in the Central Bank of Liberia, including: (a) the purchase of four vehicles worth $244,000, paid using fees due to the Ministry of Commerce from BIVAC, which should be held jointly liable in the conspiracy (it should be noted that two of the jeeps were not traced to any official Government record); and (b) granting illegal exemption from pre-shipment inspection fees, including $79,053 for Bridgeway Corp., which should be held jointly liable in the conspiracy ($76,900 of the Bridgeway money was used to buy rice for Ministry of Commerce employees and some members of the public).

141. The ECOWAS team investigated the wrongful use of letter payment instructions issued by the Ministry of Finance to the Central Bank of Liberia for payment to individuals. Virtually all 134 letter payments examined, worth almost $5 million, were signed by the Minister of Finance or the Deputy Minister for Expenditure. The Minister said that all had been initiated upon written or verbal

instruction from Chairman Bryant, although not a single instruction was appended to the letters. Chairman Bryant admitted having received most of the money ($2,655,854), although when pressed, the Chairman "intimated that he was not under any obligation to share with the team information on how these moneys have been expended, much less account for their use documentarily". A total of $1,042,000 of those funds were meant for National Commission for Disarmament, Demobilization, Rehabilitation and Reintegration.

142. The team concluded that the Minister of Finance, Lucinee Kamara should refund $36,700 of unjustified expenditures, the Deputy Minister, Tugbe Doe, should refund an additional $110,000, and jointly they should refund an additional $200,000. An aide to Deputy Minister Doe received $17,000 and failed to return the money, which was meant for ex-combatants. The Vice-Chairman of the National Transitional Government, Wesley Johnson (who was recently made Ambassador of Liberia to the United Kingdom), received $34,050 for expenses to "witness the graduation of his daughter" from university in the United States; this purely personal expenditure should be returned. The ECOWAS investigators concluded that Chairman Bryant and Mr. Doe should be held liable, jointly and severally, for the misappropriation of $375,000 supposedly intended for the procurement of commodities for ex-combatants, and that Chairman Bryant himself should be held liable for the misappropriation of $667,000, supposedly meant for activities of the National Commission for DDRR. When the Panel met with Chairman Bryant, he stated that he was under no obligation to disclose the purposes for which the funds had been used, and he dared the Government to prosecute him.

143. At the time of writing, no action to prosecute these National Transitional Government officials has been taken. The current Minister of Justice told the Panel that the Government would indict some of the persons in November, once the courts began their winter session.

Auditor-General's office

144. Traditionally, the role of government oversight is strengthened by a strong, professional general auditing office under an independent auditor-general appointed for a fixed tenure. Although the new Government had promised to organize the audit of all ministries, departments and agencies expeditiously and, pending their findings, National Transitional Government officials were not supposed to leave the country, no such effort has been made in the 11 months since the inauguration. Only a European Commission-sponsored audit of FDA and a National Transitional Government-initiated audit of LPRC had been completed.

145. The new Government did not appoint an Auditor-General until November; the previous Auditor-General acted in the interim. Furthermore, the recast budget slashed the budget of the General Auditing Office to one third of its original size. As a result, the functioning of the Office has been badly affected. The strengthening of the Office as an instrument of accountability is of paramount importance.

Conclusions and recommendations

146. The financial picture is improving since the new Government took power. The Government has begun to address some of the prior shortfalls in revenues and fraudulent expenditures, but there needs to be continued vigilance to improve the overall transparency of all financial activities to ensure that the lifting of sanctions

will provide revenues directly to the Government for the benefit of Liberians and not be used to support conflict.

147. The following actions are recommended:

- All ministries, departments and agencies should be audited annually, back to October 2003, and legal action should be pursed against corrupt officials.
- The payment of import duties and taxes, by petroleum and rice importers in particular, should be audited by the General Auditing Office, with a report submitted within three months. Effective pre-shipment inspection of petroleum imports should begin immediately.
- The Government should institute a collections department to pursue large outstanding arrears. As per the BIVAC contract and the President's policy announced in July, no one should be allowed to import or export goods or obtain a Government contract until their arrears are paid.
- The General Auditing Office should be strengthened and adequate infrastructure and qualified manpower provided so that it can carry out its onerous responsibilities. The Office should also audit the accounts of all important ministries, departments and major revenue-generating parastatals annually.

VI. Assets freeze

Implementing legislation

148. More than two and half years since the Security Council passed the assets freeze resolution (1532 (2004)), the Government of Liberia has still not frozen anyone's assets. In April 2006, the new Minister of Justice expressed the belief that Liberia needed legislation for the implementation of Security Council resolutions, especially the assets freeze, as Liberians had a constitutionally protected right to property. Given that two members of the House of Representatives and Senate are on the assets freeze lists, the Minister admitted that it would be difficult for the Legislature to pass such a bill. Nonetheless, the Minister of Justice sought the help of UNMIL in the preparation of implementing legislation.

149. In August the Minister conceded that there was no chance that assets freeze legislation could be passed by the present Legislature. She promised, however, to bring an executive order to the President immediately after the Legislature went on recess, which occurred in September. In November, the Minister said she had been advised that an executive order was inappropriate, as it would be applicable for one year only.

150. The Minister for Foreign Affairs also maintained that Liberian citizens had legal rights to property and hence, their assets could not be frozen unless the courts agreed. When the Panel stated that as a State Member of the United Nations, the Government had an obligation to implement the resolutions of the Security Council, he agreed to bring the issue to the attention of the President. He agreed to suggest that the Ministry of Justice at least bring the legislation before the Legislature.

Due process

151. The Speaker of the House of Representatives, Edwin Snowe, himself on the assets freeze list, stated that he would like to support legislation in which due process would be provided to individuals before they were put on assets freeze lists and, since in this case no due process had been followed, that he personally would not back such legislation if brought to the Legislature. (He also stated that the Speaker voted only in the case of a tie.) The Speaker suggested that the Security Council provide a mechanism for individuals to be exonerated if appropriate, patterned on the practice of the International Court of Justice. He cited his personal case, saying that the United Nations had taken away his personal liberties without affording him any hearing and that he was prepared to face any court in the world. The Panel informed Mr. Snowe that he had been placed under an assets freeze, not an assets seizure, to which he had mistakenly alluded.

Lonestar

152. In a previous report (S/2005/360, para. 185) the Panel indicated that Benoni Urey and Emanuel Shaw represented PLC Investment Ltd (PLC) on the Board of Directors of Lonestar Communications Corporation. They have since been replaced. In 2005 Lonestar earned profits of $4.48 million and paid dividends of $3 million to its two shareholders, of which PLC received $1.20 million. In addition, PLC should have received $1.08 million as its share (10 per cent) of the revenues of Lonestar. Ministry of Finance records did not indicate that PLC was among the "large taxpayers" that have paid more than $1,000 annually in income tax. The Panel met Mr. Urey in his office at Lonestar Building Complex in November and he claimed that PLC had been paying the taxes and, in support of his claim, he produced receipts of withholding taxes deposited by Lonestar on behalf of PLC for January to September 2006. When the Panel requested PLC financial statements and published annual reports, he stated that it would not be possible to provide them.

Elected officials

153. Two individuals on the assets freeze list were elected to the Legislature in October 2005. Edwin Snowe is Speaker of the House, and Jewel Howard Taylor is the senior Senator from Bong County. The Government's budget for 2006/07 provides $327,605 for the Office of Speaker for the period from July 2006 to June 2007. Mr. Snowe himself draws monthly allowances in excess of $5,000 in addition to his basic salary of approximately 5,000 Liberian dollars ($100) per month and other entitlements. There is a provision of $25,000 in the budget for foreign travel, though he is covered by the travel ban. As a Senator, Mrs. Taylor gets $1,500 in monthly allowances, $900 in transportation allowances and 150 gallons of gasoline ($450) in addition to a basic salary of 3,500 Liberian dollars ($70).

Outside Liberia

154. After Charles Taylor was sent to the Special Court for Sierra Leone, the Panel contacted Nigeria to determine whether reports that he was holding a large amount of cash at the time of his arrest were true and whether those assets had been frozen. As yet, the Government of Nigeria has provided no communication.

155. There are allegations that during his time in exile in Calabar, Mr. Taylor made significant investments in Nigeria, such as in real estate, including properties in the

Okoi Arikpo and State Housing Estates in Calabar and Obudu Ranch, in Cross Rivers State (where many members of his family now reside), and vehicles, including trucks used by the construction firm Arab Contractors. In addition, Mr. Taylor allegedly invested approximately $1 billion naira ($7.8 million) in the Tinapa Free Zone and Resort project in Cross Rivers State.

156. The Panel also contacted Bulgaria, France, the Gambia, Ghana, the Netherlands, Sierra Leone, the Syrian Arab Republic, the United Arab Emirates, the United Kingdom, and the United States to learn about the progress made in freezing of the assets of persons designated by the Security Council in its resolution 1532 (2004). Only the United Arab Emirates has frozen assets since the submission of the previous report. Until now, the assets of the persons designated in table 10 have been frozen by Member States.

Table 10
Assets frozen in compliance with Security Council resolution 1532 (2004)

Country that froze the assets	*Name*	*Type of asset*	*Value*
France	Mohd. A. Salame	Bank accounts	€784 142
	M. Moussa Cisse	Bank accounts	€16 883
	M. Augustinus Kouwenhoven	Bank accounts	€32 725
Germany	Leonid Y. Minin	Bank accounts	€2 089
Ghana	Grace B. Minor	3 bank accounts	$116 963
Lebanon	Mohd. A. Salame	2 bank accounts	$2.54 million
	Ali Ramadan Kleilat Al-Dilby	Several bank accounts	Not available
	Charles R. Bright	Bank accounts	Closed in April 2004
	Edwin M. Snowe	Bank accounts	-$141 768 (overdraft)
Syrian Arab Republic	Ammar Mamdouh Chichakli	Bank accounts	Not available
United Arab Emirates	Valeriy Naydo	Bank accounts	$338
		Blocked Western Union transaction	$1 948
	Airbas Transportation Inc.	Bank accounts	$10 858
United Kingdom	Agnees Reeves Taylor	Bank accounts	£22 400
	San Air	Insurance company	£173 506
	Victor A. Bout	Bank account	€1 227
	Irina Shlyam (wife of Leonid Minin)	Bank account	£70 255
United States of America	Benoni W. Urey	Real estate	$695 000
	Victor A. Bout	Investments in companies	$2 million (approx.)

157. The Government of Lebanon reported two accounts in the Lebanese French Bank belonging to Mr. Snowe: one in Lebanese lira, which was closed, and the other a United States dollar account. After Mr. Snowe was put on the assets freeze list in August 2004, the dollar account had several transactions, both credits and debits, some of them for hundreds of thousands of dollars with a Lebanese firm, Creative Investment SAL (offshore). On 30 November 2004, the funds were withdrawn again through the assistance of Creative Investment, resulting in an overdraft of $141,768. Creative Investment is owned by Jamal Basma, Ghassan Basma and two other persons.

158. In his first official visit to a foreign country since being placed under the travel ban, for which he was given an exemption by the Sanctions Committee, it was widely reported in Liberia that Mr. Snowe had been accompanied to Qatar by a Lebanese businessman who had formerly worked with the petroleum company of Jamal Basma. Mr. Snowe told the Panel that he had had to travel with the businessman as he did not speak Arabic and it was difficult to manage clearance at Dubai Airport if one did not know Arabic.

Recommendations

159. The Government of Liberia must institute appropriate measures, whether through legislation or executive order, so that it can implement Security Council resolutions in both letter and spirit without any further delay.

VII. Arms

Armed forces

160. Following the demobilization of the Armed Forces of Liberia, the training of the new armed forces has begun. Over 4,500 Liberians initially applied, of which 300 have been vetted and a further 1,400 are being processed. On 4 November 2006 the first batch of 106 newly trained soldiers graduated.

161. The ability of Liberia to meet its security needs will depend not only on training the armed forces but also on the ability to financially maintain them. Currently, the United States Government is supporting the restructuring and operating costs. It is estimated that it will cost an annual $13 million to sustain a force of 2,000 soldiers. This represents 10 per cent of the current budget of Liberia. In 2009, when training is complete, the Government of Liberia will have to assume financial responsibility. At that time, the United States will provide basic supplies to the armed forces and will supply 50 military experts for a mentorship programme (2009-2010).

162. There have been ongoing demonstrations by demobilized armed forces soldiers about money they believe is still owed to them. The Government and UNMIL are aware of the situation; the Panel does not believe these demonstrations pose a serious threat to internal stability.

Police

163. There have been problems concerning the new Liberian National Police. Accusations of corruption and the difficulties faced in effectively patrolling all areas of Liberia have led to questions about the ability of the police to perform their

duties. Delay in the payment of salaries has created resentment within the force, and United Nations police noted that this has resulted in some members of the Liberian National Police being reluctant to patrol with them.

164. There are currently 2,240 trained and vetted police officers, and a further 790 are in training at the Police Academy. In the former Liberian National Police there were 3,743 registered officers, with an unofficial force of around 5,000 people. The current salary stands at $90 a month. Arrears from June to September have been paid, but October arrears remain outstanding. Worthy of particular note is the fact that those who serve outside of Greater Monrovia must travel into the city to receive payment, and this can disrupt their duties.

165. Measures have been taken to reduce harassment at illegal checkpoints established by former Liberian National Police officers to extort money. These include organized road traffic points manned by appointed officers, as well as an internal investigations unit responsible for dealing with this matter. In July 2006, the Liberian National Police dismissed 10 officers for financial fraud and failure to carry out their duties.

Crime

166. Although reports of crime have fallen, reports of serious crime have increased in the past year (see table 11).

Table 11
Crime statistics for the third quarter of 2005 and 2006

Crimes	*July-September 2005*	*July-September 2006*
Serious		
Rape	42	127
Armed robbery	19	61
Robbery	54	61
Homicide/murder	13	41
Mob violence	—	37
Illegal possession of firearms/shooting	7	19
Kidnapping	16	10
Arson	5	5
Riot	1	3
Total	**2 414**	**2 317**

Source: United Nations police.

167. The figures shown in table 11 may not represent an accurate picture, as the reporting of crime may have increased with the renewed faith in and ability of the State to act against crime, as well as an improved capacity to maintain statistics within the Liberian National Police.

168. Most crime is centred on greater Monrovia, where over a third of the population lives. The number of prisoners at the main jail in Monrovia has increased from 200 in 2003 to more than 500 in 2006.

169. Sexual and gender-based violence, particularly against children, continues to be a major concern. The Panel noted that there were 127 reported rape cases from July to September 2006. The Rape Amendment Act came into effect in March 2006, with much clearer provisions outlawing rape and establishing severe penalties. In a meeting with the Panel on 19 November, Beatrice Muna Sieh, head of the Liberian National Police, stated that more women were reporting rape as confidence in the police sector grew.

170. Monrovia has experienced a crime wave known collectively as the "Issakaba Boys". The first reports of these night-time robberies began in June 2006. These raids by armed gangs often follow the distribution of intimidating leaflets that cause widespread panic.

171. In retaliation, the Liberian National Police and the United Nations police launched a joint operation called "Sweeping Wave" on 12 September. Police manpower was increased for the operation by over 200 officers, bolstered with support from the National Security Agency and the Bureau of Immigration. Targeted action during the nightly patrols produced a deterrent effect, which led to 741 arrests, 137 of which were charged in court, mostly on minor drug offences.

172. The Ministry of Justice called on citizens to form "security watch teams" to combat crime. In the weeks that followed, six people died as a result of mob violence.

Justice and penitentiary system

173. The Panel believes that the incapacity of the Liberian legal and judicial system seriously hampers the ability of the country to combat endemic corruption and to move to a fairer and more transparent society.

174. The Liberian legal system maintains a facade of justice while there appears to be little serious intention to actually bring cases to a verdict. In the August court term in Bomi County, for example, the county attorney initiated seven cases but failed to bring any to a verdict. In practice, the judicial system operates to extract income from persons brought before it. In the Magistrates Courts, court time is predominantly dedicated to administering bail rather than attending to other legal procedures.

175. In a review of the three Magistrates Courts in Monrovia, an UNMIL investigation calculated 1,600 bail cases as "missing". These are cases that have been granted bail at the Magistrates Court but have not been entered into the Circuit Court lists. To this figure should be added approximately 200 bail cases correctly transferred to the Circuit Court and those 500 cases where defendants were remanded to prison.

176. UNMIL has trained lawyers distributed to most of the counties who provide support to local Liberian judicial officers. Unfortunately, most courts cannot function properly for lack of the most basic equipment, such as typewriters and paper. The Panel believes that support in those areas would have a substantial and rapid impact, as well as integrating well with other United Nations-led activities.

177. The Liberian National Police does not fulfil its responsibilities in preparing trial cases for the prosecution. After Operation Sweeping Wave, the Liberian National Police Court Liaison Section was able to produce only 37 charge sheets for

the 79 arrests reviewed. Although Liberian National Police record keeping is poor, it is still better than at the courts, where there is a vested interest in cases being lost.

178. While the Liberian National Police does forward cases to the court system, it does so in an incomplete manner. With a clogged judicial system and few cases being tried, there is no impetus for the police to interview witnesses, collect evidence and prepare testimony. The failure of the police to forward either evidence or arresting police officers to court has serious consequences for the rights and liberty of the poorest defendants. Those unable to post bail are remanded to prison until they can arrange payment. If they are unable to do so, they must wait for a trial, which has a negligible chance of occurring.

179. The Panel visited the central prison in Monrovia in September and November. On one visit, out of a population of 536 inmates, the vast majority (514) had been detained on remand; there were only 22 convicted prisoners. Long periods of pre-trial detention and incarceration of convicted long-term prisoners with detainees on remand for minor offences raises security concerns. Breakouts and riots are prevalent. A large detention facility is nearing completion near Zwedru, Grand Gedeh, which should ease crowding in Monrovia.

Economic criminality

180. Although there is greater stability, economic crime is still rife. Key individuals who prosecuted the war continue to exercise control of resource areas as a legacy of the war and the National Transitional Government. Often this takes the form of taxes on resources and those working the land. Outlying regions such as Sinoe and River Cess are at the greatest danger. Historical ties and a lack of infrastructure in those areas mean that it is difficult for the Government to enforce its mandate.

181. In the River Cess area, ex-National Patriotic Front of Liberia (NPFL) commander General Zack (also known as Kofi; see S/2005/360, para. 127) has been controlling large areas and taxing pit-sawing operations without hindrance. Ex-NPFL Commander MacDonald Tarpeh controls operations at the notorious Butaw Oil Palm Corporation diamond mine in Sinoe. Kia Farley continues to exert influence inside the Sinoe Rubber Plantation using ex-combatants loyal to him from the war.

182. Under the Comprehensive Peace Agreement, leading figures from the warring factions gained senior positions in the National Transitional Government. For example, Joe Gbalah was head of the National Port Authority, having been Secretary-General of LURD, and Ofore Diah, Gbalah's Deputy Chief of Staff with LURD, assumed head of security at the National Port Authority. Even a senior commander in MODEL, Payee Dowah, Jr., was given the position of Deputy Head of Administration of the National Port Authority. Throughout the National Transitional Government, former warlords increased the staff of their ministries and agencies by employing many of their former fighters. Samuel Wlue, a senior political figure in MODEL, became Minister of Commerce. Rather than depositing duties and taxes into the Central Bank, importers fed rice to Ministry of Commerce staff and other ex-combatants (see para. 140 above). Thus, networks established during the war were maintained under the National Transitional Government. With the end of the National Transitional Government, it seems likely that some leaders are now exploiting opportunities within Liberia and Côte d'Ivoire to maintain their networks.

183. It is crucial that the Government be able to enforce resource control and monitoring in all areas of the country to prevent the development of economic balkanization across Liberia. Prior to the war, Liberia was practically subdivided among different Taylor confidantes who were operating commercial enterprises in each of the regions, generally extractive industries such as logging and mining. Unless this system is removed, Liberia risks reverting to criminal business models developed under the old patronage system.

Rubber plantations

184. The exclusion of rubber as a sanctioned commodity has helped to fuel economic crime since the end of the war. Rubber plantations have acted as a magnet for ex-combatants, and this has resulted in a rise in violent crime in the surrounding areas (see S/2006/379, para. 9).

185. Ex-LURD commander Sumo Denis controlled the Guthrie Rubber Plantation from the end of the war until recently. On 15 August, the Government, with support from UNMIL, formally took control of the plantation by introducing an interim management team.

186. The disruption of criminal activity in Guthrie has led to a number of incidents in the nearby area. In one such incident, on 5 September, around 20 ex-combatants attacked a Weala Rubber Company truck and stole $19,280. Eight suspects were later arrested, and there was an attempted breakout of the suspects while they were being conveyed through Bushrod Island to Liberian National Police headquarters. Sumo Denis was wanted for questioning in connection with those incidents.

187. Ex-combatants have moved into areas of the Firestone rubber plantation to illegally extract rubber. On 5 September, two members of division 16 of the Firestone security team were murdered when they came across a group of around 100 illegal rubber tappers armed with cutlasses and knives.

188. Ex-LURD commander Paulson Garteh has been in command of the Sinoe rubber plantation, at one time vying with ex-MODEL commander Kia Farley for control. Mr. Garteh and his colleague, Bouler Siggeor, were arrested in Greenville for robbery and assault of local police on 12 May. They were transferred to Monrovia but were later released on bail and subsequently disappeared. The Panel has credible reports that Mr. Garteh has now moved to Côte d'Ivoire accompanied by a group of around 20 ex-combatants from the Sinoe rubber plantation. Mr. Siggeor was rearrested and detained at the central prison in Monrovia from 19 October to 16 November, whereupon he was released on bail. Investigations of the swift release of those individuals from custody have indicated suspicious circumstances that involve highly placed politicians who have vested interests in the Sinoe rubber plantation.

189. Much of the rubber trade in eastern Liberia is being sold through Côte d'Ivoire. This includes large amounts of rubber from Cavalla and the Sinoe rubber plantation. In its Operation Victoria, carried out on 17 July, UNMIL noted that many workers on the plantation spoke French and had come from Côte d'Ivoire. Historic ties mean that many of the ex-combatants who have established themselves in these places have strong links to Côte d'Ivoire.

Recruitment for Côte d'Ivoire

190. Côte d'Ivoire remains one of the greatest threats to stability in Liberia. A renewed offensive in Côte d'Ivoire would most certainly involve Liberian fighters and result in the large-scale displacement of refugees into Liberia. Loose networks of individuals exist on both sides of the border that are disposed to mercenary recruitment. Identifying cross-border weapons trafficking as the primary indication of recruitment masks the extent of these informal networks. Economic imperatives drive the process, with many ex-combatants working informally on farms and plantations with the understanding that they can be called on for combat.

191. The informal networks that exist in Liberia are based on those established in 2003 when such individuals as Payee Dowah, Jr., (also known as John Garrant) and Alfonso Zaiyee were recruiting for MODEL/Lima militia in southern Côte d'Ivoire. Many Liberians lived in Côte d'Ivoire during the war in Liberia, and it is only natural that strong economic and personal bonds exist between eastern Liberia and western Côte d'Ivoire.

192. While rumours of mercenary recruitment persist, the Panel does believe that many Liberians remain on standby as fighters in Côte d'Ivoire in both the northern and southern zones of the country. The recruitment of Liberians has been most widespread in the southern loyalist zone, centred on the town of Toulépleu. The town is the nerve centre of Lima, the militia with which many Liberians are affiliated under the control of Ivorian lieutenant Jean Oulai Delafosse.

193. The Panel has learned that the new point man for Liberian recruitment in Abidjan is Merico Talu, Jr. He took over from Arthur Bebo (formally of the United Liberation Movement for Democracy in Liberia (Johnson wing) "Butt-Naked Brigade"), who died in an ambush in 2003.

194. In a high-level case, Adana Keita, alleged to be Ivorian, was arrested in Zwedru on 31 March 2005 on suspicion of having been involved in mercenary recruitment (see S/2005/360, para. 77). The National Transitional Government Minister of Justice, Kabineh Ja'neh, personally flew to Zwedru to oversee the interviews of the suspect. Mr. Keita was later released from custody for lack of evidence.

195. The Panel has also received credible reports that Guinea has been used as a transit point for the training of mercenaries loyal to Ivorian president Laurent Gbagbo. The Panel found no evidence to suggest that substantial recruitment has been taking place among the Liberian diaspora in Ghana.

Travel ban

196. The Panel investigated travel ban violations in Côte d'Ivoire, Ghana, Liberia, the Netherlands, and Togo.

197. Benjamin Yeaten travelled to Ghana in October 2003, where he has a family and was treated for a serious medical condition. From there he travelled to Togo, where he had been staying under the protection of the Defence Minister, General Assani Tidjani. On 19 March 2004 he was placed in special custody at a gendarmerie camp but was released on 15 October 2004.

198. Despite assurances from the Togolese authorities that they had released Mr. Yeaten on 15 October 2004, the Panel believes that he has remained in Togo and retains an apartment at the Nukafo barracks in Lomé.

199. The Panel also has credible information that Mr. Yeaten spends time in northern Côte d'Ivoire. There are widespread reports that he is suffering from a serious medical condition.

200. Mr. Yeaten is in possession of five Liberian passports (two diplomatic and three ordinary, two of which were supplied to him as blanks). There is a good possibility that he may have acquired other foreign nationality passports under aliases.

201. The Panel furnished a copy of the travel ban list to the immigration authorities at Lomé International Airport after they indicated that they were not in possession of such a document.

202. In Togo, the Panel also investigated Mohamed Salame, who was seen in Lomé in March 2006. During his stay he took a suite in the Hotel du Deux Février.

203. The Government of Togo has assured the Panel that the Togolese diplomatic passport issued to Mohamed Salame had been withdrawn (passport No. XXX296, valid from 21 August 2002 to 20 August 2008). The Panel obtained a copy of the document, which contained over 125 immigration stamps accrued from September 2002 to November 2004, including from Benin, Brunei Darussalam, Côte d'Ivoire, Ghana, Nigeria and Togo. None of these countries have reported that the individual contravened the United Nations travel ban in visiting their States (see annex V).

204. One stamp indicates that Mr. Salame visited Calabar, Nigeria, from 12 to 22 August 2003. (It should be noted that Charles Taylor arrived in Calabar on 11 August 2003.)

205. The Panel is also aware that Mr. Salame is in the possession of a Liberian and a Lebanese passport. He currently resides in Abidjan.

206. In 2001, the Lebanese national Ali Colaylate Al Delbi (also known as Ali Kleilat) was convicted of trafficking stolen cars from the Netherlands to Nigeria, but he escaped while on bail. On 17 March 2006 he was rearrested in the Netherlands on suspicion of money-laundering while in possession of €3 million. Ali Kleilat is now serving a four-year sentence in connection with the 2001 conviction and is awaiting trial on present allegations of money-laundering. The authorities in the Netherlands have recovered €1.4 million from him in administrative costs, and the remaining money that he was caught with is being processed by the prosecution services of the Netherlands. Ali Kleilat's assets in Lebanon have been frozen.

207. The Panel is not aware of any violations of the travel ban in Liberia itself. However, the Security Council has allowed two waivers to the travel ban: (a) Emanuel Shaw was permitted to travel from Liberia to Frankfurt, Germany, via Brussels, for medical care; and (b) Edwin Snowe was allowed to travel to Qatar, via an UNMIL flight from Liberia to Ghana, connecting to a commercial flight via Dubai, to attend a conference on governance.

Weapons

208. The disarmament phase of the disarmament, demobilization, rehabilitation and reintegration programme destroyed 30,807 weapons. Most of the weapons (64 per cent) were collected from former Government of Liberia fighters. The rebel groups provided few: LURD returned 24 per cent of those collected, and MODEL returned only 12 per cent.

209. It is more difficult to determine the rate of return for each faction (i.e., what percentage of their weapons was actually collected during the programme). From known weapon deliveries to the Government of Liberia, the Panel determined that approximately half of the weapons were surrendered during the programme (see table 12 and S/2005/360, paras. 54-62). Whether those rates are representative of all weapons held by fighters is unclear. If anything, they were relatively new weapons and therefore may be more likely to be kept by ex-combatants than older weapons at the end of their serviceable lives.

210. Return rates for LURD were probably lower than Government of Liberia rates. During the war in 2002, 143 serial numbers were recorded, of which 54 had been collected during the disarmament, demobilization, rehabilitation and reintegration programme (38 per cent).

Table 12
Return rates for weapons during the disarmament, demobilization, rehabilitation and reintegration programme

Weapon type	*Number in possession during war*	*Number collected*	*Return rate (percentage)*
Government of Liberia			
M-70 AB2-2001 Zastava rifle, former Yugoslavia	5 000	3 899	78
KLF/KLS rifle, Iran (Islamic Republic of)	20 979 (based on serial number series, not official weapon delivery data)	2 449	12
AK-57, unknown origin	1 117	287	26
M-84 Zastava rifle, former Yugoslavia	55	34	62
M-93 black arrow Zastava rifle 2001, former Yugoslavia	4	10	40
RPG-7, former Yugoslavia	792	420	53
RB-57 launcher, former Yugoslavia	352	215	61
Average			47
LURD	143	54	38

Source: UNMIL and Panel of Experts.

211. The Panel was unable to estimate return rates for MODEL, as no lists of known serial numbers were provided. However, the fact that MODEL returned fewer than 4,000 weapons suggests that their return rates were probably low too.

Indeed, at Harper, on the border with Côte d'Ivoire, the disarmament, demobilization, rehabilitation and reintegration programme collected fewer than 100 weapons.

212. The whereabouts of the outstanding weapons is unknown. It is believed that LURD returned a substantial number to Guinea following the cessation of hostiiities. The poor quality and limited number of weapons collected from MODEL suggests that its members also returned their weapons to Côte d'Ivoire.

213. Searches conducted by the Liberian National Police and UNMIL during Operation Sweeping Wave in Monrovia found two AK-47 rifles and one 9-mm pistol with 113 rounds of ammunition.

214. The Panel was concerned by the discovery of a list detailing 20 sniper rifles issued to the now-defunct Anti-Terrorist Unit. The rifles had been exported from the Federal Republic of Germany in 1989, with end-user certificates for the United States, to be sold as recreational hunting rifles. It is not known how they found their way to Liberia (see annex VI).

215. There have been various issues with regard to the Special Security Service. There are two confirmed incidents of gunfire. One took place at the home of Special Security Service Director Chris Massaquoi at 4 a.m. on 5 August 2006. This resulted in the death of a security agent who was shot and killed by another Special Security Service officer armed with an M-4. In the other incident, on 8 August, a weapon was fired towards the residence of the Deputy Director of the Service, Ashford Peal. These two incidents are of concern in connection with Security Council resolution 1683 (2006), in which the Council authorized Liberian Special Security Service personnel to carry weapons only in an operational theatre.

216. The Panel made an inspection of the weaponry received by the new Armed Forces of Liberia. The weapons remain under the strict supervision of the contractors in charge of State security reform. A total of 150 AK-47 rifles from Romania (with bayonets) and 69,000 7.62 x 39-mm rounds of ball ammunition have been delivered. The Panel inspected the armoury vault where the stocks of ammunition and weaponry will be maintained and found that the security measures in place were satisfactory.

217. The Panel notes that an armed private security firm will be contracted to guard these facilities until the armed forces are ready to take over those duties. The Panel suggests that this process should be subject to prior approval by the Security Council.

218. The Liberian National Police remain unarmed, and the first batch of weapons and ammunition are expected to arrive from Nigeria. These include 50 Beretta pistols, 6,000 smoke cartridges and 3,000 hand grenades. The Panel notes that the grenades should be only the tear-gas type appropriate for police activities.

219. In a previous Panel report (S/2003/937, paras. 39, 40 and 98-105), the company Katex Mine Guinea was identified as a possible provider of weapons to LURD in 2003, with flights going to Conakry from Tehran in particular. The judicial authorities of Monaco opened a rogatory commission for money-laundering, in particular regarding the origin of the €13 million deposited between March 2002 and July 2005 by Katex Mine Guinea in its Monaco account in the name of its

Syrian Director, Hadj Ahmad Fouzi (see annex VII). The investigators also identified bank accounts in Tehran and in Latvia.

220. On 14 June 2006, ECOWAS heads of State meeting in Abuja adopted a new convention aimed at stopping the proliferation of small arms in West Africa. The convention allows ECOWAS to impose sanctions, suspend loans and strip violators of their voting rights if member States fail to comply with restrictions on the manufacturing and importation of small arms and light weapons.

Annex I

Meetings and consultations

Belgium

European Commission, West Africa Division

Antwerp Diamond High Council

World Diamond Council

Botswana

Kimberley Process Certification Scheme Plenary

Côte d'Ivoire

Ministère de la défense

Interpol Bureau sous-regional

United Nations Operation in Côte d'Ivoire

Licorne

Nikla Refugee Camp

German Agency for Technical Cooperation

National Commission for Disarmament, Demobilization, Rehabilitation and Reintegration

France

Ministry of Foreign Affairs

Ghana

National Security Agency

Guinea

État-Major Defense

Liberia

Government

Speaker of the House

Ministry of Agriculture

Ministry of Finance

Ministry of Commerce and Industry

Ministry of Foreign Affairs

Ministry of Education

Ministry of Health

Ministry of Works

Ministry of Defence

Ministry of Lands, Mines and Energy

National Port Authority

National Security Agency

Central Bank of Liberia

Bureau of Maritime Affairs

Liberian Civil Aviation Authority

Special Security Service

Forestry Development Authority

Liberia Petroleum Refining Company

Budget Bureau

Auditor-General

Environmental Protection Agency

Former Chairman, National Transitional Government of Liberia

Diplomatic

ECOWAS representative

Ghana

Lebanon

Nigeria

United Kingdom of Great Britain and Northern Ireland

United States of America

United Nations bilateral and multilateral agencies

Office of the United Nations High Commissioner for Refugees

United Nations Children's Fund

World Food Programme

Food and Agriculture Organization of the United Nations

World Health Organization

United Nations Development Programme

United Nations Environment Programme

United Nations Mission in Liberia

European Commission

Liberian Forest Initiative

International non-governmental organizations

International Crisis Group

Forest and European Resources Network

Conservation International

Fauna and Flora International

National non-governmental organizations

Sustainable Development Institute

Green Advocates

Coalition of Environmental Organizations in Liberia

Private sector

Ana Woods

BIVAC International

Liberian Timber Association

Liberian International Ship and Corporate Registry LLC

LISCR Trust Company

USA Defense Cooperation

Dyncorp

Mittal Steel Security

Sierra Leone

Government

Protocol

National Security Commission

Police

Army

Customs Service

Multilateral and bilateral agencies

Special Court for Sierra Leone

United Nations Mission in Sierra Leone

Private-sector sources

Togo

Government

Agence nationale de renseignements

Ministère de la défense nationale

Directeur, Aviation civile

Directeur, Agency for the Safety of Air Navigation in Africa and Madagascar

Ministère affaires etrangères

Immigration Police

Multilateral and bilateral agencies

United Nations Development Programme

United Kingdom of Great Britain and Northern Ireland

Royal Institute of International Affairs

Global Witness

Bank of England

International Organizations Department

Foreign and Commonwealth Office

Department for International Development

United States of America

Government

Forest Service

State Department

Treasury

Government Accountability Office

Bilateral and multilateral agencies

Conservation International

Human Rights Watch

International Crisis Group

International Monetary Fund

World Bank

United Nations

Department of Political Affairs

Interpol Liaison Office

Permanent missions

France

Lebanon

Liberia

Nigeria

Annex II

Progress in passing the act adopting the National Forestry Reform Law of 2006

1. Pursuant to paragraph 2 of its resolution 1689 (2006) of 20 June 2006, the Security Council decided to review the lifting of timber sanctions on Liberia after 90 days and expressed its determination to reinstate the measures in paragraph 10 of resolution 1521 (2003) unless the Council was informed by that time that the forestry legislation proposed by the Forest Reform Monitoring Committee (FRMC)[a] had been passed.

2 The present report assesses progress in meeting this requirement.

Status of the legislation

3. On 19 September 2006 — 90 days after the adoption of resolution 1689 (2006) — the House and Senate passed identical versions of the act adopting the National Forestry Reform Law of 2006. With the signature of the President of Liberia and the subsequent publication in a handbill, the act will become law.

4. Other than three amendments, the act is the same as the legislation proposed by FRMC.

History of the legislation

5. In 2004, the Liberia Forest Initiative (LFI, the collaborative effort to provide technical assistance to the Forestry Development Authority (FDA)), began drafting amendments to the National Forestry Law of 2000. When President Johnson-Sirleaf promulgated executive order 1 in February 2006, the newly empanelled FRMC assumed the task. The process involved assistance from international and national experts, outreach to local communities and the forestry sector and communication with the Legislature.

6. On 3 June 2006, FRMC, through its Chairman (the Managing Director of FDA) gave the Legislature the proposed legislation. The Legislature insisted on proper procedures, namely, that the President's office transmit proposed legislation to the House. This was accomplished on 17 July 2006.

7. After the first reading of the act in the House on 18 July 2006, committee hearings were held, which included comprehensive public comments. LFI sponsored broadcasts of the hearings on local Star radio. The second reading occurred on 29 August and the House passed the act unanimously. The act was then transmitted to the Senate, without amendments, which was unanimously passed with 28 amendments on 31 August. The two chambers formed a conference committee to resolve outstanding differences, but on 18 September the House members informed the committee that it did not have legal standing to participate, as the House had not authorized it. (On 15 September, the Chair of the Forest Committee in the Senate attempted to have the act attested, despite the fact that neither chamber had voted on its adoption.) Nonetheless, at 1.17 p.m. on 19 September, the Senate unanimously

[a] FRMC was created through executive order 1, which also declared all purported forest concessions null and void based on the analysis and recommendations of the Forest Concession Review Committee.

passed on third reading an amended version of the act and sent it to the House for approval, which was passed four hours later with only four voting against.

8. Unfortunately, the passage of the act in the House has been surrounded by controversy, as the four voting against claim foul play because their motion of reconsideration was not acknowledged before voting. Moreover, local logging interests are pursuing a campaign to mislead Liberians about the content of the act and are encouraging people to reject its legitimacy. These agents do not have a legal case and it is expected that the furour will eventually subside.

Amendments

9. After the second reading, the Senate included 28 amendments, most of which were minor (e.g., replacing "may" with "shall"). Only three differed substantially from the FRMA draft:

(a) From the preamble, the following clause was deleted: "WHEREAS, Executive Order No. 1 (February 2006) declared all concessions in the Republic of Liberia null and void and called for the establishment of the FRMC to provide a new approach to forest management to benefit all Liberians". The Senate explained that legal counsel had advised it that executive order 1 was unconstitutional, and therefore, reference to it could potentially undermine the act. Legal counsel to LFI, civil society, FDA and the executive branch strongly disagree. Although the House did not present any amendments to the Senate, some Representatives claim that they also wanted this paragraph deleted. Their reasoning is that the House does not acknowledge executive order 1 because the President did not officially inform them of its existence, and they believe that the Constitution requires the Legislature to deal with matters in executive orders by introducing appropriate legislation — legislation that they refuse to enact with respect to voiding logging concessions. Although, the preamble of a law has little legal effect, the deletion indicates that some in the Legislature believe that executive order 1 is invalid. If executive order 1 is overturned, it would introduce extreme legal uncertainty into the sector and jeopardize all the reform efforts;

(b) Second, the Senate insisted that it ratify all forestry concessions, a power it claims is derived from article 34 of the Liberian Constitution ("The Legislature shall have the power to: ... (f) approve treaties, conventions and such other international agreements negotiated or signed on behalf of the Republic"). Thus, the Senate amended section 5.3 of the act: "f. No Forest Management Contract is effective until the contract has been: ... (ii) ratified by the Legislature during the legislative session in which the contract has been presented." In order to make the sector more investment-friendly, FRMC had advocated removing ratification by the Legislature altogether, or less ideally, introducing a time-bound ratification period of 90 days, after which the contract shall be ratified (just as article 35 of the Constitution, referring to passage of laws, states that "if the President does not return the bill or resolution within 20 days ... the same ... shall become law"). Ideally, the competitive bidding process alone would determine which of the qualified bids was successful. An alternative view: the amendment potentially introduces a check and balance to the process. But as it stands, it is unclear what happens if the Legislature fails to ratify the concession during the legislative session. This is a substantial issue given that the forest concession review found that only three concessions over the past 15 years had been ratified by the Legislature;

(c) Third, in order to re-establish a vibrant domestic forestry sector, the Senate insisted that all small logging concessions (less than 100,000 hectares) be awarded to companies that are majority-owned by Liberian citizens.[b] This amendment is not investor-friendly, and it makes it likely that the Government will receive less money than if the concession were subject to bidding by all interested companies. Under this amendment, it is likely that past business arrangements will re-emerge where foreign companies put up the capital for companies fronted by Liberians.

10. Despite the above amendments, some Liberian loggers — newspapers on 19 September 2006 most notably quote Inland Logging Company's Oscar Cooper — claimed that the act gave all Liberia's forests to foreign interests. They insist that 40 per cent be reserved for 100 per cent Liberian-owned companies. Many vocal Representatives held this position, including those who had attended the conference committee (albeit without House approval) and stated that they were meeting with loggers on 18 September to determine their position. The 40 per cent policy would have had a strong negative effect on the sector because it would have led to conflict over which 40 per cent the Liberian companies should receive: should it be the "best" 40 per cent or should the 40 per cent be equally distributed across the counties, for example. Fortunately, the 40 per cent was never introduced as an amendment. However, as mentioned above, there is a serious misinformation campaign being waged to confuse people and lead them to believe that the 40 per cent provision was in the act or an alternative story, that the act was not properly voted on and is therefore invalid. However, on 21 September a motion filed in the Liberian House of Representatives to reconsider the act was soundly defeated, further increasing confidence that the act has indeed been validly adopted.

11. Under Liberian law, the act will become law once it has been signed by the President and published in a handbill. The Panel will alert the Sanctions Committee when this has been accomplished.

[b] The exact wording is: "Section 5.3 g. In an effort to re-establish a vibrant domestic Forestry sector, the Government shall accept bids on Forest Management Contracts covering a land area of between 50,000 and 99,999 hectares only from qualified bidders that demonstrate at least 51% ownership by Liberian citizens. However, if no qualified Liberian bidders present tenders for the contract or secure the contract during one bidding cycle, the Authority may re-bid the contract through a process open only to qualified bidders that demonstrate 51% ownership by Liberian citizens."

Annex III

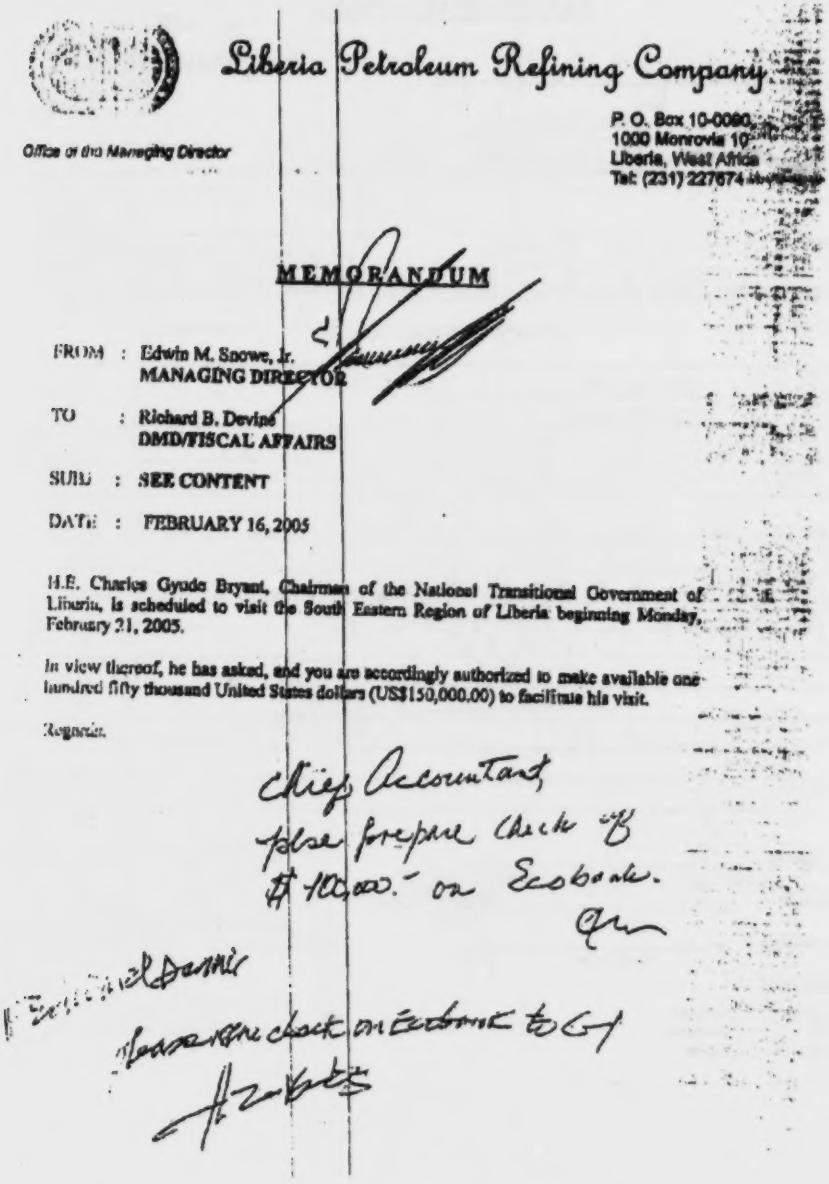
Sectoral gap analysis of needs and provision of social services in Liberia (2000-2006)

The estimated population of Liberia is 3,064,982 of whom 20 per cent (605,506) are returnees (internally displaced persons and refugees). Data are from the Ministry of Development and Economic Planning, the United Nations Children's Fund, the United Nations Development Programme, the Office of the United Nations High Commissioner for Refugees, the World Food Programme, the Food and Agriculture Organization of the United Nations and the Humanitarian Information Centre. Gaps represent the difference between pre-war levels and current provisions and international standards.

Sector	*Service*		*Standard*	*Pre-war*	*Current*	*Gap*
Water	Population (and percentage of Liberians) with access to clean, safe drinking water: 274,848 (9 per cent)	Average number of persons per one water stand: 1,965	Number of hand pumps required: 10,913	Number of hand pumps: 3,192	Hand pumps functioning and being rehabilitated: 1,559	Remaining number of hand pumps required: 7,356
Education	Children of school age: 919,495 (30 per cent)		Number of schools required: 4,754	Number of schools: 2,690	Schools functioning and being rehabilitated: 3,421	Remaining number of primary schools required: 1,717
Health	Estimated population per clinic: 308,000		Number of clinics required: 773	Number of clinics: 316	Clinics functioning and being rehabilitated: 271	Remaining number of clinics required: 506
Sanitation	Estimated total number of families: 523,550	Population with access to safe excreta disposal: 91,949 (3 per cent)	Number of family latrines/slabs required: 397,095		Number of slabs distributed: 39,399	Remaining number of latrines/slabs required: 356,890
Crop production	Estimated total number of families: 598,682	Estimated number of farming families: 321,010 (53 per cent)			Estimated number of families given seeds and tools: 188,711	Remaining number of farming families requiring seeds and tools: 185,293
Shelter	Estimated total number of families: 512,984		Estimated number of families requiring shelter support: 293,313 (70 per cent)		Estimated number of shelter kits distributed: 26,881	Remaining number of families requiring shelter support: 286,415

Annex IV

Example of voucher for cash withdrawals from the Liberia Petroleum Refining Company



Liberia Petroleum Refining Company

Office of the Managing Director

P. O. Box 10-0080,
1000 Monrovia 10
Liberia, West Africa
Tel: (231) 227674

MEMORANDUM

FROM : Edwin M. Snowe, Jr.
MANAGING DIRECTOR

TO : Richard B. Devine
DMD/FISCAL AFFAIRS

SUBJ : SEE CONTENT

DATE : FEBRUARY 16, 2005

H.E. Charles Gyude Bryant, Chairman of the National Transitional Government of Liberia, is scheduled to visit the South Eastern Region of Liberia beginning Monday, February 21, 2005.

In view thereof, he has asked, and you are accordingly authorized to make available one hundred fifty thousand United States dollars (US$150,000.00) to facilitate his visit.

Regards.

Chief Accountant,
please prepare check of
$ 100,000.- on Ecobank.

Please the check on Ecobank to G

LIBERIA PETROLEUM REFINING COMPANY

PAYMENT VOUCHER

No. 0735

Date: January 18, 2005

Petty Cash	Bank: EcoBank
Voucher #	CK #00258060

Posted by TMG

Payee:	Amount LS	Amount USD
Gloria W. Menn		100,000.00

Amount in Words: One hundred thousand United States Dollars Only

DISTRIBUTION (Office use only)

COST CENTER / ACCT./DEPT. CODE DR.	CR.	AMOUNT PAID LD	USD
50821-6010	12056-1000	$	$ 100,000.00

Reason for this Payment: Being payment as management's contribution towards the travel of the Chairman of NTGL H.E. Charles Bwesie Brumskine to the South Eastern Region of Liberia as per attached.

PAID

Date: 1/18/05

Initiated by:

Checked by:

Approved by: Comptroller

Managing Director

Received by: Gloria W. Menn

Original: Accounts
Copy: Workroom
Copy: Voucher

LIBERIA PETROLEUM REFINING COMPANY

PAYMENT VOUCHER

Date: January 13, 2006

Pay Cash | Bank: IBT
Voucher # | CK #: 0000768

Posted by [illegible]

Payee: Olivia T. Pierre

Amount: LD [illegible] | US [illegible]

Amount in Words: One Hundred Thousand United States Dollars

DISTRIBUTION (Office Use Only)

COST CENTER	ACCT./DEPT. CODE		AMOUNT PAID	
			LD	USD
DR	CR			
2KEU-6310	12051-1000			100,000.00

Reason for this payment: Being payment to facilitate the trip of the Chairman of the National Industrial Investment Authority, Liberia Mr. Nagey Wegee to attend Forum as per attached.

Prepared by: [signature]

Cosed by: [signature]

Approved by: [signature]
Comptroller

GENERAL CASHIER
01/13/06
LPRC

Managing Director

Received by: [signature]

Distribution

Original: Accounts
Copy 1: Warehouse
Copy 1: Vendor

Liberia Petroleum Refining Company

P.O. Box 10-0098
1000 Monrovia 10
Liberia, West Africa
Tel.: (231) 227674

January 9, 2006

Mr. Edwin M. Snowe, Jr.
Managing Director
LPRC
Monrovia, Liberia.

Dear Mr. Snowe:

In a meeting with the Chairman of the Liberia National Transitional Government, we discussed his trip to the ECOWAS Submit to be held in Niamey, Niger, including his delegation. Given the central government's financial position, it was suggested, discussed and agreed that LPRC assist with financing the trip.

Accordingly, I hereby direct that you liaise with the office of the Chairman to work out the financial details of the trip and make the necessary disbursement to his office and charge same to GOL account.

Please furnish me with the details of the disbursement for the Board's anchilen and information.

Kind regards.

Very truly yours,
LIBERIA PETROLEUM REFINING COMPANY

Frederick D. Cherue
CHAIRMAN, BOARD OF DIRECTORS, LPRC

Reimburse Mr. Cooper raise on $100,000.00 on the

Please work with the Chairman and prepare a check for #175,000.- as payment to GOL

LIBERIA PETROLEUM REFINING COMPANY

PAYMENT VOUCHER

No.

Date: May 2, 06

Petty Cash | Bank: Ecobank

Voucher # CK#0026536478

Payee: Barnabas B. Kpaor, Jr.

Amount in Words: Sixty-five thousand United States Dollars

DISTRIBUTION (Office use only)

COST CENTER		AMOUNT PAID	
ACCT/DEPT. CODE			
DR.	CR.	DR.	CR.
508211-1000	101101-1000	$	$ 65,000.00

Reason for this Payment: Being payment as management decision to facilitate the travel of the Chairman of the Transitional Government of Liberia and his delegation to the United States of America on official business.

Received Payment

Prepared by:

Coded by:

Approved by:

Distribution:

Original : Accounts
Copy : Warehouse
Copy : Vendor

Received by:

Liberia Petroleum Refining Company

P. O. Box 10-0930
1000 Monrovia 10
West Africa

Office of the
Deputy Managing Director
Fiscal Affairs

MEMORANDUM

FROM: Richard D. Devine
DMD/FISCAL AFFAIRS

TO: Siaka A. Sheriff
COMPTROLLER

SUBJ: SEE CONTENT

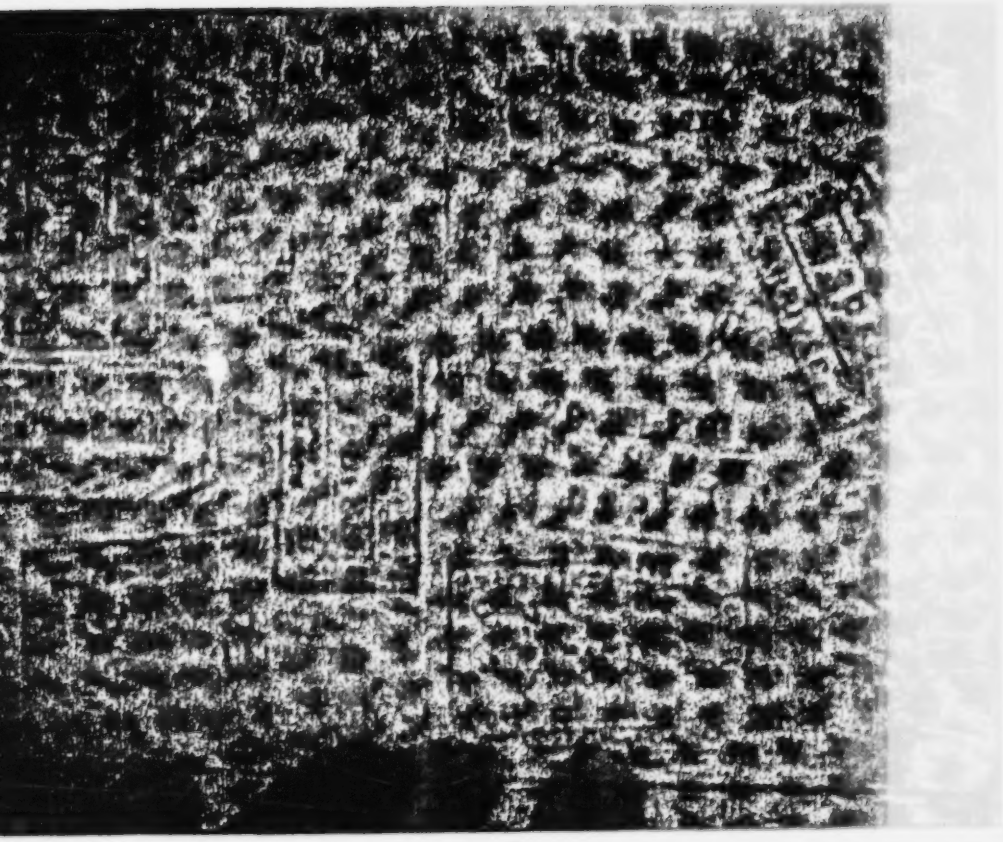
DATE: May 9, 2005

By direction of the Chairman, H.E. Gyude Bryant, and as instructed by the Managing Director, you are asked to prepare a cheque for (US$65,000.00) Sixty-Five thousand United States Dollars; same being LPRC's contribution to facilitate the travel of the Chairman, Gyude Bryant to the United States.

Kind regards.

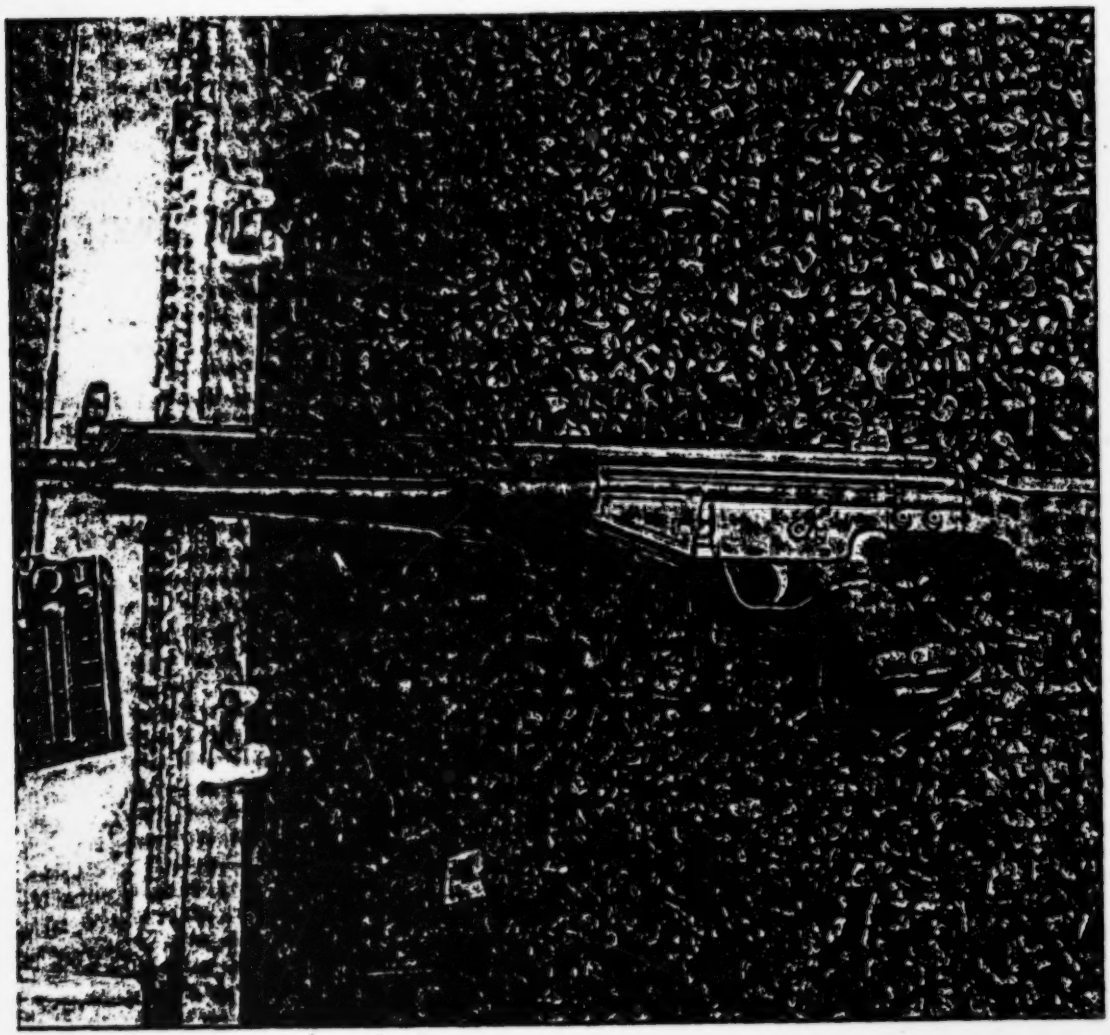
CC: Chairman of the Board
Managing Director

Page from passport of Mohamed Sahnoun with stamps from international travel between September 2002 and November 2004



Annex VI

Hunting rifle found in Liberia



Annex VII

Document showing wire transfers involving the Katex Mine Guinea

Nom HADJ AHMAD
Prénom [illegible]
N° compte [illegible] Banque COMPAGNIE MONEGASQUE DE BANQUE
Devise €
Date mar 1 janv 2002 au lun 10 juil 2006

Total filtré	6 269 999,80	0,00
Total	13 434 331,93	13 403 371,76

Date Valeur	Opération	Débit	Origine	Destination	Crédit	
mar 15 mai 2002	Virement		KATEX MINES GUINEE		500 000,00	
ven 12 juil 2002	Virement		KATEX MINES GUINEE		800 000,00	
mer 16 juil 2002	Virement		KATEX MINES GUINEE		1 400 000,00	
mer 14 août 2002	Virement		KATEX MINES GUINEE		1 000 000,00	
mar 20 août 2002	Virement		KATEX MINES GUINEE		150 000,00	
mer 13 nov. 2002	Virement		KATEX MINES GUINEE		120 000,00	
ven 28 févr 2003	Virement		KATEX MINES GUINEE		400 000,00	
mar 24 juin 2003	Virement		KATEX MINES GUINEE		499 999,80	
lun 25 avr 2005	Virement		KATEX MINES GUINEE		700 000,00	
ven 29 juil 2005	Virement		KATEX MINES GUINEE		800 000,00	
				Total	13 434 331,93	13 403 371,76

United Nations S/2006/977

Security Council

Distr.: General
18 December 2006

Original: English

Report of the Secretary-General concerning the credentials of the alternate representative of Qatar on the Security Council

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received credentials from the First Deputy Prime Minister and Minister for Foreign Affairs of Qatar, signed on 10 December 2006, stating that Sultan Ibrahim Al-Mahmoud has been appointed alternate representative of Qatar on the Security Council.

In the opinion of the Secretary-General, those credentials are in order.

06-66649 (E) 181206

United Nations S/2006/978

Security Council

Distr.: General
14 December 2006

Original: English

China, France, Russian Federation, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

The Security Council,

Welcoming the report of the Secretary-General of 1 December 2006 (S/2006/931) on the United Nations operation in Cyprus,

Noting that the Government of Cyprus is agreed that in view of the prevailing conditions in the island it is necessary to keep UNFICYP beyond 15 December 2006,

Taking note of the assessment of the Secretary-General that the security situation on the island continues to be generally stable and that the situation along the Green Line remains calm, and welcoming the decrease in the overall number of incidents involving the two sides,

Urging both sides to avoid any action which could lead to an increase in tension such as military exercises and, in this context, noting with concern that disagreements have arisen over civilian activities in the buffer zone, including farming and construction, and encouraging both sides to engage in consultations with UNFICYP on the demarcation of the buffer zone, respecting UNFICYP's mandate, and to reach an agreed approach to UNFICYP's operations in the buffer zone on the basis of the United Nations 1989 aide-memoire,

Expressing its strong appreciation for the work of Under-Secretary-General Gambari in achieving the 8 July agreement and welcoming the principles and decisions enshrined therein, including recognition that the status quo is unacceptable and that a comprehensive settlement based on a bicommunal, bizonal federation and political equality, as set out in the relevant Security Council resolutions, is both desirable and possible and should not be further delayed, but noting, with regret, the Secretary-General's assessment that continued lack of trust between the parties has so far prevented the implementation of any of those decisions, underlining the need to implement the 8 July agreement without further delay, and expressing the hope that the recent positive reaction of the leaders of both communities to suggestions by the United Nations will result in the finalization of the preparatory phase as soon as possible in order to prepare the ground for fully fledged negotiations leading to a comprehensive and durable settlement,

Welcoming continued progress in demining, expressing strong support for UNFICYP's efforts to extend demining operations to Turkish Forces minefields in

06-66286 (E) 151206

the rest of the buffer zone, and welcoming the prospect that it could be declared free of mines within two years,

Reiterating its call to the parties to assess and address the humanitarian issue of missing persons with due urgency and seriousness, and welcoming in this regard the resumption of the activities of the Committee on Missing Persons since August 2004, and the progress which has since been made, as well as the appointment by the Secretary-General of a third member,

Welcoming the continuing crossings by Greek Cypriots to the north and Turkish Cypriots to the south which have taken place peacefully, and encouraging early progress on other confidence-building measures, such as the opening of additional crossing points, including at Ledra Street,

Welcoming all efforts to promote bicommunal contacts and events, including, inter alia, on the part of the United Nations, and urging the two sides to promote further bicommunal contacts and to remove any obstacles to such contacts,

Expressing concern, in this respect, that opportunities for constructive public debate about the future of the island, within and between the communities, are becoming fewer, and that this atmosphere is hampering, in particular, efforts to foster bicommunal activities intended to benefit Greek Cypriots and Turkish Cypriots, and to promote reconciliation and build trust in order to facilitate a comprehensive settlement,

Noting the primary role of the United Nations in assisting the parties to bring the Cyprus conflict and division of the island to a comprehensive and durable settlement,

Reaffirming the importance of the Secretary-General continuing to keep the operations of UNFICYP under close review while continuing to take into account developments on the ground and the views of the parties, and reverting to the Council with recommendations as appropriate for further adjustments to UNFICYP's mandate, force levels and concept of operation as soon as warranted,

Echoing the Secretary-General's gratitude to the Government of Cyprus and the Government of Greece for their voluntary contributions to the funding of UNFICYP, and his request for further voluntary contributions from other countries and organizations,

Welcoming and encouraging efforts by the United Nations to sensitize peacekeeping personnel in the prevention and control of HIV/AIDS and other communicable diseases in all its peacekeeping operations,

1. *Welcomes* the observations in the Secretary-General's report on progress since June, and in particular on developments since 8 July, and expresses appreciation for his personal efforts over the last 10 years, and those of his staff, aimed at achieving a comprehensive solution;

2. *Reaffirms* all its relevant resolutions on Cyprus, in particular resolution 1251 (1999) of 29 June 1999 and subsequent resolutions;

3. *Expresses* its full support for UNFICYP, including its mandate in the buffer zone, and decides to extend its mandate for a further period ending 15 June 2007;

4. *Calls on* the Turkish Cypriot side and Turkish forces to restore in Strovilia the military status quo which existed there prior to 30 June 2000;

5. *Expresses* full support for the process agreed by the leaders, *encourages* active participation in bicommunal discussions as described in Under-Secretary-General Gambari's letter of 15 November 2006, under the auspices of the SRSG, and *calls for* early completion of the preparatory phase so that a fully fledged good offices process may resume as soon as possible;

6. *Requests* the Secretary-General to submit a report on implementation of this resolution by 1 June 2007;

7. *Welcomes* the efforts being undertaken by UNFICYP to implement the Secretary-General's zero-tolerance policy on sexual exploitation and abuse and to ensure full compliance of its personnel with the United Nations code of conduct, requests the Secretary-General to continue to take all necessary action in this regard and to keep the Security Council informed, and urges troop-contributing countries to take appropriate preventive action including the conduct of predeployment awareness training, and to take disciplinary action and other action to ensure full accountability in cases of such conduct involving their personnel;

8. *Decides* to remain seized of the matter.

United Nations A/61/634–S/2006/979

General Assembly
Security Council

Distr.: General
14 December 2006

Original: English

General Assembly
Sixty-first session
Agenda item 19
Question of Cyprus

Security Council
Sixty-first year

Letter dated 12 December 2006 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government, and further to my letter dated 25 October 2006, addressed to you (A/61/542-S/2006/847), I have the honour to draw your attention to new violations of international air traffic regulations and the national airspace of the Republic of Cyprus by military aircraft of the Turkish air force, recorded from 17 October to 1 December 2006.

On 17 and 18 October 2006, one C-160 and one Cougar Turkish military aircraft violated international air traffic regulations five times and the national airspace of the Republic of Cyprus four times.

On 20, 21 and 24 October 2006, one C-130, one C-160 and one C-235 Turkish military aircraft violated international air traffic regulations three times and the national airspace of the Republic of Cyprus once.

On 26 October 2006, two C-130 Turkish military aircraft violated international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 27 October 2006, two Cougar Turkish military aircraft violated international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 2 and 3 November 2006, one CN-235, one Cougar and one Bell Turkish military aircraft violated international air traffic regulations six times and the national airspace of the Republic of Cyprus six times.

On 3, 4 and 6 November 2006, one Bell, one Cougar and one Cessna Turkish military aircraft violated international air traffic regulations seven times and the national airspace of the Republic of Cyprus seven times.

On 7 and 8 November 2006, two C-160 and two Cougar Turkish military aircraft violated international air traffic regulations eight times and the national airspace of the Republic of Cyprus eight times.

On 9 November 2006, two CN-235 and two Cougar Turkish military aircraft violated international air traffic regulations six times and the national airspace of the Republic of Cyprus five times.

06-66231 (E) 181206

On 10 and 12 November 2006, two CN-235 and two C-130 Turkish military aircraft violated international air traffic regulations eight times and the national airspace of the Republic of Cyprus eight times.

On 13 November 2006, one B-200, one Bell and one Cougar Turkish military aircraft violated international air traffic regulations five times and the national airspace of the Republic of Cyprus five times.

On 14 November 2006, one C-130, five NF-5 and one Cougar Turkish military aircraft violated international air traffic regulations seven times and the national airspace of the Republic of Cyprus seven times.

On 15 November 2006, one C-130, four NF-5 and two Cougar Turkish military aircraft violated international air traffic regulations eight times and the national airspace of the Republic of Cyprus eight times.

On 16 November 2006, one C-130, nine NF-5 and one Cougar Turkish military aircraft violated international air traffic regulations 13 times and the national airspace of the Republic of Cyprus 13 times.

On 10, 12, 13 and 14 September 2006, one Cougar and one C-160 Turkish military aircraft violated international air traffic regulations five times and the national airspace of the Republic of Cyprus five times.

On 17 and 20 November 2006, one C-130 and one Cougar Turkish military aircraft violated international air traffic regulations eight times and the national airspace of the Republic of Cyprus eight times.

On 24 and 25 November 2006, one CN-235 and one Cougar Turkish military aircraft violated international air traffic regulations twice and the national airspace of the Republic of Cyprus once.

On 29 November 2006, one C-160 and one Cougar Turkish military aircraft violated international air traffic regulations twice and the national airspace of the Republic of Cyprus once.

On 30 November and 1 December 2006, one C-130 and one CN-235 Turkish military aircraft violated international air traffic regulations three times and the national airspace of the Republic of Cyprus twice.

On behalf of the Government of the Republic of Cyprus, I strongly protest the aforementioned violations, which, as indicated in our previous communications, blatantly endanger the safety of international civil aviation, contravene international law and air traffic regulations. The violations put at stake the peace and stability of the region, and I call for their immediate cessation. The Government of Turkey should heed the call of the international community, abide by the Charter of the United Nations and respect the sovereignty, independence and territorial integrity of the Republic of Cyprus, thus contributing to the creation of the required conditions for the achievement of a just and viable solution to the Cyprus problem.

I would be grateful if the present letter could be circulated as a document of the sixty-first session of the General Assembly, under agenda item 19, and of the Security Council.

(*Signed*) Andreas D. **Mavroyiannis**

United Nations A/61/636–S/2006/980

General Assembly
Security Council

Distr.: General
14 December 2006

Original: English

General Assembly
Sixty-first session
Agenda item 80
The rule of law at the national and international levels

Security Council
Sixty-first year

Uniting our strengths: Enhancing United Nations support for the rule of law

Report of the Secretary-General

Summary

In 2004, I articulated a common language of justice for the United Nations, incorporating concepts of "justice", "rule of law" and "transitional justice". Since my report, there have been important and positive developments. At the 2005 World Summit, Member States reaffirmed their commitment to an international order based on the rule of law and international law, stating that it was essential for peaceful coexistence and cooperation among States. Rule of law and transitional justice issues are now being consistently integrated into the strategic and operational planning of new peace operations and Member States now almost universally recognize the establishment of the rule of law as an important aspect of peacekeeping. As a result, the Security Council is increasingly engaged in including human rights and the reform of policing, judicial, penal and legal systems in mandates.

Supporting Member States to strengthen the rule of law is a key part of the work of the Organization and the basis for action to ensure "freedom from want" and "freedom from fear", as outlined in my report "In larger freedom: towards development, security and human rights for all". While the Organization has been actively involved in providing such support, much remains to be done with regard to our capacities, coherence and coordination.

The centrality of rule of law to the work of the Organization has resulted in many United Nations departments, funds and programmes becoming engaged in a wide range of rule of law activities. Indeed, since my report in 2004, additional actors have joined the rule of law field, with United Nations and non-United Nations actors developing and implementing training and reform programmes, criminal justice strategies, guidelines and manuals, sometimes in coordination, sometimes not. These efforts notwithstanding, the dedicated capacities of the Organization remain shallow, both at Headquarters and in the field. The needs are particularly acute with

06-66101 (E) 191206

regard to our rule of law and transitional justice expertise in conflict and post-conflict societies, in which only a small number of Headquarters staff are assigned. With limited staff and resources, the Organization has, inevitably, turned to non-United Nations actors for assistance. Though external expertise is extremely valuable, chronic outsourcing undermines any attempt at building and retaining institutional memory and dedicated expertise within the United Nations.

The Organization needs to deepen and rationalize its rule of law work, strengthen its capacities, enhance its institutional memory and coordinate more effectively within the United Nations and with outside actors. To achieve these objectives, a division of labour is being established among the key United Nations actors. To ensure better coordination and adequate capacities across the system, lead entities, designated in accordance with their mandates, will assume clearly defined responsibilities for specific areas of rule of law activities. Lead entities will be obligated to take action to ensure that required capacities exist upon which the whole system can draw. The designation of lead entities is intended to ensure a much higher degree of coherence, predictability and accountability in the delivery of rule of law assistance to Member States.

In addition, to help ensure overall coordination among the lead entities and other actors, at both the global and the country level, I have decided to establish a Rule of Law Coordination and Resource Group within the Secretariat. This Group, chaired by the Deputy Secretary-General, will be the focal point for coordinating system-wide rule of law activities so as to ensure quality control and greater policy coherence and coordination. The Group, which will be supported by a small secretariat unit, will act as a repository of rule of law materials, expert rosters, web resources and best practices, in close cooperation with the relevant lead entities. The Group will also give consideration to recommending the establishment of a rule of law trust fund.

The Rule of Law Coordination and Resource Group will also lead a consultative process with relevant partners, first and foremost Member States. This will identify priority gaps in capacity of the United Nations that need to be filled in the rule of law area and recommend where, and by when, these capacities should be established.

I. Introduction

1. On 6 October 2004, the Security Council held a meeting to discuss "Justice and the rule of law: the United Nations role" and my report of 23 August 2004, entitled "The rule of law and transitional justice in conflict and post-conflict societies" (S/2004/616). In a statement made on behalf of the Security Council at the conclusion of the meeting, the President stressed the importance and urgency of the restoration of justice and the rule of law in post-conflict societies, not only to come to terms with past abuses, but also to promote national reconciliation and to help prevent a return to conflict (see S/PRST/2004/34). The Security Council later requested the Secretariat to make proposals for implementing the recommendations, set out in paragraph 65 of my report, aimed at strengthening the efforts of the United Nations system to address rule of law and transitional justice issues in conflict and post-conflict societies. On 22 June 2006, the Security Council met to discuss "Strengthening international law: rule of law and maintenance of international peace and security", and, in a presidential statement, reiterated the need for the Secretariat to provide proposals (S/PRST/2006/28).

2. The present report will address the request for proposals for enhancing United Nations-system arrangements for supporting the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616, para. 65 (a)) and other considerations set out in my report (paras. 65 (b)-(j)) in a broader context. This is because strengthening rule of law capacities, coherence and coordination is also undertaken in States where the United Nations does not deploy peace or political operations. Thus, this report will make recommendations intended to bring clarity and coherence to the Organization's overall approach to its rule of law activities and assistance.

3. In my report entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005, para. 137), I indicated my intention to create a dedicated Rule of Law Assistance Unit, drawing heavily on existing staff within the United Nations system, in the proposed Peacebuilding Support Office, to assist national efforts to re-establish the rule of law in conflict and post-conflict societies. Subject to a report, the 2005 World Summit Outcome supported the idea of establishing an assistance unit so as to strengthen United Nations activities to promote the rule of law, including through technical assistance and capacity-building (resolution 60/1, para. 134 (e)), and the presidential statement of the Security Council of 22 June 2006 expressed the support of the Council for the idea. On 4 December 2006, the General Assembly at its sixty-first session adopted a resolution that also included support for a dedicated rule of law entity (resolution 61/39). This report will respond to those requests.

II. Background

4. I last reported to the Security Council on this issue in 2004, when I articulated a common language of justice for the United Nations, incorporating concepts of "justice", "rule of law" and "transitional justice" (see S/2006/616, paras. 5-9). My report also set out the normative foundation for our assistance, namely the Charter of the United Nations, together with the four pillars of the modern international legal system — international human rights law, international humanitarian law, international criminal law and international refugee law — and the wealth of United

Nations human rights and crime prevention and criminal justice standards. These universally applicable standards serve as the normative basis for all United Nations activities in support of justice and the rule of law. As I stated in my "In larger freedom" report (A/59/2005, para. 128), the protection and promotion of the universal values of the rule of law, human rights and democracy are ends in themselves. They are also essential for a world of justice, opportunity and stability.

5. Since the 2004 report, there have been important developments. In 2005, the Heads of State and Government attending the General Assembly World Summit identified rule of law as one of four key areas that demanded greater attention. Member States reaffirmed their commitment to an international order based on the rule of law and international law because it is essential for peaceful coexistence and cooperation among States (resolution 60/1, para. 134 (a)). In addition, Member States recognized that rule of law was equally essential for sustained growth, sustainable development and the eradication of poverty and hunger (para. 11).

6. In addition, clear and unambiguous language was accepted by all Governments concerning the responsibility to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The international community also accepted its role to take collective action, through the Security Council, in accordance with the Charter of the United Nations, to help such populations, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from the above crimes (para. 139). Since then, the Security Council referred the situation in Darfur to the International Criminal Court. The Court also commenced its first trial in the context of the Democratic Republic of the Congo. Legal protection was also enhanced by the newly established Human Rights Council's adoption of the International Convention for the Protection of All Persons from Enforced Disappearance.[1] Also significant is the entry into force on 22 June 2006 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 57/199, annex). The Optional Protocol creates the Subcommittee on Prevention and allows in-country inspections of places of detention to be undertaken in collaboration with national institutions.

7. With regard to the Organization, it is consistently integrating rule of law and transitional justice issues into the strategic and operational planning of new peace operations. Member States now almost universally recognize the re-enforcement of the rule of law as an important aspect of peace missions in order to achieve sustainable peace and security. As a result, the Security Council is more prepared than previously to include human rights, policing,[2] judicial and legal systems and prison system responsibilities in mandates. Currently, the Council has mandated the deployment of more than 15,000 United Nations police officers in 17 peace operations. Intergovernmental budgetary bodies and donor countries more frequently fund rule of law initiatives in both post-conflict and development settings. Since 2003, the Secretariat has planned, selected and deployed police, judicial and corrections components in virtually all new missions: previously,

[1] *Official Records of the General Assembly, Sixty-first session, Supplement No. 53* (A/61/53), chap. II.A, resolution 1/1.

[2] The term "policing" or "police" as used in this report includes all national security agencies, such as the police and the gendarmerie, that exercise police powers, especially the powers of arrest and detention.

judicial and prison system reform aspects were rarely found outside of executive missions. The peacekeeping mission planning template includes police, judicial and prison reform elements that are closely associated with other key components, including human rights.

8. The list of guidelines, manuals and tools developed by the 2002 Task Force for the Development of Comprehensive Rule of Law Strategies for Peace Operations of the Executive Committee on Peace and Security has been updated, and the Department of Peacekeeping Operations, the United Nations Office on Drugs and Crime (UNODC) of the Secretariat, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) continue to develop lessons learned studies and guidance materials in the areas of police, prison systems, legal and judicial systems and transitional justice. There are well-populated rosters of qualified judicial and prisons staff, and there are currently very few vacancies in the field. Since 2004 considerable work has been done to ensure that the Organization identifies the most effective approaches and provides a full range of tools to ensure that rule of law activities incorporate gender considerations and ensure the participation of women. Several departments, funds and programmes, such as OHCHR, UNDP, the United Nations High Commissioner for Refugees (UNHCR), UNICEF and the United Nations Development Fund for Women (UNIFEM) have staff dedicated to gender equality programming and gender mainstreaming at Headquarters and in the field.

9. Despite these substantial steps forward, much remains to be done with regard to our capacities, coherence and coordination efforts.

III. Existing roles and capacities

A. Background

10. Supporting Member States to strengthen the rule of law is central to the work of the United Nations system and its many departments, funds and programmes. Within the Organization, there is considerable breadth to our rule of law activities.[3]

11. The Office of Legal Affairs of the Secretariat is responsible for the establishment of, and operational support for, international and internationally assisted criminal tribunals and provides advice to other international judicial accountability mechanisms and commissions of experts and inquiry. In addition, the Office has taken the lead within the United Nations system in providing training programmes for national authorities and others aimed at the promotion of international law generally.

12. In its missions, the Department of Peacekeeping Operations of the Secretariat leads on support to policing and supports other rule of law-related aspects of peacekeeping operations, such as justice and legal systems and prison systems. It also convenes the United Nations Rule of Law Focal Point Network, a mechanism for coordinating rule of law strategies for peace operations.

[3] For a detailed overview of rule of law activities undertaken at the Headquarters level, see document S/2004/616, para. 12.

13. The Office of the United Nations High Commissioner for Human Rights takes the lead within the United Nations system on the promotion and protection of human rights, including transitional justice. OHCHR provides support and guidance on transitional justice issues, including the development of policy tools and assistance in the design, establishment and implementation of transitional justice mechanisms. The rule of law-related initiatives of OHCHR include activities to enhance the ratification of human rights treaties, improve the administration of justice at the national level and record violations, including through mechanisms created by the Human Rights Council, in areas such as arbitrary detention, independence of the judiciary and torture. OHCHR also provides expert support for international commissions of inquiry and the establishment and strengthening of national human rights institutions.

14. The United Nations Office on Drugs and Crime promotes efforts to combat trafficking, transnational organized crime, money-laundering, corruption and terrorism in line with the relevant international instruments. UNODC also, as custodian of international standards on crime prevention and criminal justice, assists States in the reform and strengthening of their criminal justice systems. The United Nations Children's Fund works to ensure that children are better served by justice systems that provide greater protection for victims, witnesses and offenders. Programmes focus on legal and policy reform for the incorporation of child justice standards; institutional capacity-building of law enforcement, justice and social welfare sectors in support of improved justice for children (including transitional justice mechanisms); the establishment of diversion programmes; and increased public awareness, dialogue and support for justice for children. The Department of Political Affairs of the Secretariat works on incorporating transitional justice elements in conflict resolution and management, while its Electoral Assistance Division is responsible for electoral matters.

15. The United Nations Development Programme supports national capacities with regard to administration of formal and informal justice systems with a view to sustainable development from a long-term perspective and has a general ability to mobilize resources, at both the global and the regional level. It is becoming engaged in transitional justice programmes and support to restructuring and capacity development of the police, security sector reform programmes and prison reform. The United Nations Development Fund for Women assists in developing programmes and strategies that focus on ensuring gender equality and gender justice in peace processes as well as rehabilitation and reconstruction processes. The Office of the United Nations High Commissioner for Refugees works towards the establishment of coherent national asylum systems based on law, securing access of refugees and internally displaced persons to justice during their displacement as well as in the context of return operations in order to create an environment conducive to the safe and sustainable return of refugees and internally displaced persons. It also contributes to the prevention and reduction of statelessness by providing legal and technical advice to States and contributes to the adoption of standard-setting instruments at the global and regional levels.

B. Dedicated capacities

1. Headquarters

16. At the Headquarters level, United Nations rule of law personnel address a variety of rule of law and transitional justice issues emerging throughout the conflict, peacemaking, peacekeeping and post-conflict peacebuilding phases, as well as in long-term development contexts. They are called upon to develop coherent rule of law doctrine and policy, provide strategic advice and guidance to my representatives in the field, provide technical rule of law and transitional justice support to peace operations, recruit field staff, assess and plan activities for post-conflict peace operations and engage the broader international community, including bilateral and multilateral donors, aid agencies, non-governmental organizations and private foundations, to support such efforts. In addition, they are responsible for interacting with those departments, funds and programmes which conduct rule of law activities and whose headquarters are away from New York. United Nations personnel also develop guidance and disseminate good practices with regard to the strengthening of national justice systems and institutions in both post-conflict and development contexts.

2. The field

17. The United Nations often acts as focal point in support of the coordination of international assistance to the various rule of law and transitional justice areas. In the field, the United Nations expertise needed depends on several factors, including the host country's legal system, the causes and scope of conflict, the level of political will, the strength of institutions, cultural influences, the presence of traditional and customary systems and the degree to which the rule of law had traditionally constituted the basis of governance prior to the conflict.[4] In addition to technical assistance, training and support, host country institutions in conflict and post-conflict situations often require substantial material and financial assistance. This can take the form of capital improvements, such as the rehabilitation of police facilities, courts and prisons. United Nations trust funds may be utilized to channel timely support to weak police, judicial and prison systems. In development contexts, United Nations support focuses on strengthening national systems in line with international human rights standards.

3. Analysis of capacities

18. In order to provide the Organization, the Peacebuilding Commission and Member States with a sense of the resources that may be called upon when devising an international peacebuilding strategy for a given country-specific situation, in 2005, an internal mapping was undertaken of existing peacebuilding capacities in the Organization, both at Headquarters and in the field. The mapping focused on four broad areas, including the rule of law.

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[4] Expertise can cover electoral assistance, police administration, internal investigations, court administration, legal drafting, judicial accountability, vetting, truth-seeking processes, prison management, reparations, prosecutions, international and mixed tribunals, legal training, land and property rights, international humanitarian, human rights and refugee law, constitutional law, institution-building, public administration reform and so on.

19. The conclusions of the mapping exercise with regard to our dedicated rule of law expertise in the peacebuilding context, including our police, judicial, prison and transitional justice expertise, were consistent with these general findings. The mapping indicated that, considering how relatively high profile the rule of law area is, the modesty of United Nations human resources capacity was striking, especially at Headquarters.

20. Much attention has been devoted over the past decade to improving our peacebuilding knowledge and capacity. Communities of practice, sharing knowledge, experience and good practice have been established, but more work is needed to ensure institutionalized capacity within the United Nations. Our internal mapping has shown that the Organization is weak in institutionalizing and retaining best practice, expertise and staff. Despite the vast range of peacebuilding activities and the practical experience our staff have gained in the field, the ability of the Organization to reliably draw upon or improve our knowledge base has been insufficient.

21. The paucity of expertise at Headquarters and in the field and our present limited capacity to retain meaningful institutional memory has led many United Nations actors to turn to non-United Nations actors to fill the gaps. This external expertise is invaluable because such partnerships can only enhance and enrich our work. Nevertheless, an overreliance on outside capabilities at the expense of building and retaining institutional capacity within the Organization may undermine our goal of ensuring high quality, accountable and predictable expertise to Member States.

C. Guidelines and other materials

22. Since 2004, United Nations departments, funds and programmes have made considerable efforts to supplement existing rule of law materials, focusing on tools that support our limited knowledge base and capacities in the field. These guidelines and manuals cover a broad range of subjects, including the judiciary, transitional justice, criminal law and general legislative assistance and reform, and police, prisons systems and housing and property issues.

23. As the United Nations system's point of entry for interaction with the International Criminal Court, the Office of Legal Affairs provides advice to other entities of the United Nations system in initial contacts between United Nations actors and the Court to ensure that policies set out by the Office are followed.

24. The Department of Peacekeeping Operations has developed directives for all heads of police components and specific directives on use of force, as well as policies and guidelines on the reform, restructuring and rebuilding of the police, internal evaluations, the functions and organization of formed police units and census and identification of police officials. A handbook for United Nations police officers has also been developed and specific policies on vetting and training of police officers and the assessment of policing are being developed. The Department has also developed lessons learned studies and guidance materials in both the prisons and judicial areas. A *Prison Support Policy Directive* and *Prison Support Guidance Manual* provide best practice guidance concerning the principles, planning, management operations and technical requirements for the support of national prison systems within United Nations peacekeeping operations. The *United*

Nations Primer for Justice Components in Multidimensional Peace Operations: Strengthening the Rule of Law provides advice and guidance for justice sector field officers. Designed as a practical guide, it describes central functions, approaches and techniques as well as priority areas and activities for technical assistance, including guidance on how to build relationships and linkages. The *Primer* is the first manual in a planned series of guidance materials in the field of judicial and legal reform. The Department has also established and facilitates an electronic *Rule of Law Community of Practice*, which includes primarily police, judicial and prison officers who serve as a forum for information, experience and resource exchange, in particular for field operations. The *Gender Resource Package* developed by the Department provides a basic tool for ensuring that considerations are integrated into rule of law-related activities.

25. In 2006, OHCHR produced guidelines identifying best practices in the area of transitional justice. The *Rule of Law Tools for Post-Conflict States* are designed to ensure sustainable, long-term institutional capacity within United Nations field presences, transitional administrations and civil society on relevant transitional justice issues. The five tools outline the basic principles involved in mapping the justice sector, undertaking national prosecution initiatives, creating truth commissions, vetting public officials and monitoring legal systems. Additional tools on maximizing the legacy of mixed courts and best practices with regard to reparations programmes will be published shortly. In addition, OHCHR supported several standard-setting exercises, including the finalization of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, annex) and the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (E/CN.4/2005/102/Add.1). OHCHR also prepared a study on the scope and content of the right to the truth (E/CN.4/2006/91). OHCHR, in consultation with other entities of the Organization, civil society and other stakeholders, has also studied and analysed the transitional justice activities undertaken by the human rights components of the United Nations.

26. UNDP has developed guidelines on vetting and institutional reform and a series of policy documents, handbooks and tools on security sector reform, access to justice, gender justice, the human rights-based approach to development programming, citizen security and work to combat corruption. UNHCR has developed material on addressing housing, land and property issues in the initial stages of a peace operation. It also developed a handbook on nationality and statelessness in cooperation with the Inter-Parliamentary Union, and is currently updating its *Handbook for Registration*. UNICEF has developed materials on children and transitional justice, compilations of good practices and global indicators on juvenile justice, applicable in post-conflict as well as development contexts. UNODC is updating its *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*, which covers different areas of the criminal justice system and the revised edition of which will be published in early 2007. Drawing, inter alia, on these instruments, UNODC has developed a comprehensive *Criminal Justice Assessment Toolkit*, which consists of a series of 16 assessment tools covering the whole criminal justice system. These tools have been designed to enable United Nations actors engaged in criminal justice reform to conduct comprehensive assessments of criminal justice systems, to identify areas of

technical assistance and to assist United Nations actors in the design of interventions that integrate United Nations standards and norms, including in post-conflict situations. Recently, UNODC developed a *Handbook on Law Enforcement Responses to Violence against Women*, which is applicable in post-conflict environments.

27. Many of these guidelines and tools have been developed through collaborative efforts. For example, OHCHR collaborated with UNDP on the development of a rule of law tool on vetting (screening out individuals associated with past abuses); United Nations actors provided input and support to the development of the Department of Peacekeeping Operations prison policy, judicial and corrections guidance materials, and judicial and corrections lessons learned studies; the Office of Legal Affairs, the Department of Peacekeeping Operations, OHCHR, UNODC and UNDP are collaborating in the development of the United Nations rule of law index; and UNODC developed its *Criminal Justice Assessment Toolkit* with the cooperation of the Department of Peacekeeping Operations, UNDP, UNICEF and various other United Nations actors. UNODC and UNICEF are jointly publishing a manual for the measurement of juvenile justice indicators and are collaborating on materials to promote the use of new United Nations guidelines on matters of justice involving child victims and witnesses.

28. Despite the wide range of materials being produced by the United Nations, there is no formal process in place for the Secretariat to endorse materials to ensure coherence in doctrine or approach and to avoid overlap. The absence of quality control results in the development of guidelines and materials that no other part of the Organization is obligated to use. Where relevant guidelines are used, consensus on content, training methodology, expertise utilized and the evaluation and monitoring of their implementation is absent.

IV. Approaches to coordination

A. Background

29. In 2002, the Task Force for the Development of Comprehensive Rule of Law Strategies for Peace Operations of the Executive Committee on Peace and Security met over a three-month period to consider how the Criminal Law and Judicial Advisory Unit of the Department of Peacekeeping Operations could best mobilize and apply existing expertise/resources within the United Nations system to provide the necessary support to peace operations on rule of law issues. Among other things, the Task Force recommended the establishment of a network of rule of law focal points within relevant United Nations departments and agencies to provide ongoing and direct support to the Unit in the broader effort to sustain an integrated approach and comprehensive strategy for dealing with rule of law issues in peace operations.

30. In its report, the Task Force recommended that focal points be appointed by departments and agencies with substantial expertise/programmes dealing with rule of law-related matters in peace operations and post-conflict settings and stated that initially all of the departments and agencies represented on the Task Force should designate such focal points.[5] The Executive Committee agreed with the

[5] The designated members of the Task Force included the Office of Legal Affairs, the Department

recommendations of the Task Force and in 2003 the heads of the relevant departments and entities designated focal points.

B. Coordination at Headquarters

31. Since 2003, the United Nations Rule of Law Focal Point Network has been meeting on an as-needed basis. Attendance is most often limited to a core group of departments. Although it was intended as a mechanism to support the Criminal Law and Judicial Advisory Unit, the Network has mainly operated to share information on policy development and rule of law activities, including assessment missions, workshops and conferences. Some members of the Network have provided support to the Unit and to peace operations on rule of law issues. For example, the Department of Peacekeeping Operations and OHCHR undertook joint training of human rights and legal and judicial affairs officers in monitoring the justice system in Liberia and OHCHR and UNDP have participated in interviews of some legal and judicial affairs staff for peace operations, although this sort of assistance remains ad hoc. UNODC also carried out several programming and assessment missions to United Nations peace operations at the request of the Department of Peacekeeping Operations. Despite the best efforts of those actively engaged in the Focal Point Network, three years on, the Network has not played the full role envisaged for it by the Task Force and endorsed by the Executive Committee on Peace and Security, primarily as a result of the lack of dedicated capacity within the United Nations system on rule of law issues.

32. In addition to the focal point network, interdepartmental task forces have been established to coordinate the planning of peace operations, including rule of law and transitional justice aspects. OHCHR and UNHCR have each entered into distinct agreements with the Department of Peacekeeping Operations outlining their coordination and joint approaches on human rights and refugee issues in peacekeeping. In other contexts, the Office of Legal Affairs has coordinated training programmes for Member States on the implementation of international agreements and obligations with the participation of OHCHR, UNODC, the World Bank and the International Committee of the Red Cross, and the Inter-Agency Coordination Panel on Juvenile Justice coordinates policies, projects and activities among international organizations engaged with national authorities in juvenile justice reform.

C. Coordination in the field

33. In peace operations, rule of law working groups have been established and include United Nations personnel working on police, judicial, corrections, civil affairs, human rights, humanitarian affairs, return of displaced populations and gender issues. In some instances, these working groups are internal bodies of the mission that coordinate approaches to identifying common problems and suggested strategies. In other instances, coordination involves national actors and donors. For example, in Afghanistan, following a number of coordination initiatives, the United

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of Political Affairs, the Department for Disarmament Affairs, the Department of Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, OHCHR, UNODC, UNDP, UNHCR and UNICEF.

Nations Assistance Mission in Afghanistan was appointed as focal point to chair the newly established International Coordination Group for Justice Reform. The aim of the Group, which is composed of representatives of the main international donors and United Nations actors involved in justice reform in Afghanistan, is to coordinate international support and assistance to the Government of Afghanistan, enhance the level of information exchange among international donors and agencies, identify gaps, constraints and challenges, facilitate policy discussion and encourage and recommend a more coherent, structured and strategic approach to rule of law programming at the national and provincial levels.

34. By contrast, however, a number of peace operations with rule of law capacity have no coordination mechanisms. In other instances coordination does not include national stakeholders or donors. In certain highly decentralized United Nations actors, there is little or no communication or coordination with Headquarters.

35. In countries without peace operations, OHCHR, UNDP, UNIFEM and other funds and programmes use the country team coordination framework to plan and synthesize rule of law programming. OHCHR and UNDP have had a memorandum of understanding on the implementation of human rights at the country level since 1999. Such planning is aimed in particular at the implementation of the Secretary-General's Action 2 programme to enhance national promotion and protection systems (see A/57/387, para. 51). In addition to these formal mechanisms, much of the coordination work is conducted through informal contacts.

36. Concerning coordination and communication among field operations and between the field and Headquarters, many challenges remain. The internal mapping concluded that the Organization's engagement, approach and coordination at both the Headquarters and the mission levels remained informal and ad hoc, and was poorly harmonized with that of other key external partners (see paras. 18-21 above).

V. Strengthening our capacities, coherence and coordination

37. With a view to strengthening system-wide arrangements for our work on rule of law in the context of peacebuilding, in July 2006 I asked the Working Group on Rule of Law and Justice[6] to prepare options on how best to structure the United Nations rule of law capacity, both at Headquarters and in the field, and to provide recommendations on strengthening United Nations capacities, where warranted, and to address the issue of improving linkages with other actors. Moreover, there was a consensus that any suggested remedies should go beyond the peacebuilding context. To address this issue and to ensure the resolution of chronic problems, which would enable the Organization to be effectively and meaningfully strengthened, the Working Group made recommendations that addressed the Organization's rule of law activities in all of its work.

38. Following the recommendations of the Working Group, I have decided that in order to strengthen and rationalize United Nations capacities, in particular to assist Member States in the rule of law, the primary objectives for the Secretariat and other key United Nations actors should be to significantly enhance coherence and

[6] The Working Group was chaired by an Assistant Secretary-General and consisted of representatives of the Office of Legal Affairs, the Department of Political Affairs, the Department of Peacekeeping Operations, OHCHR, UNODC, UNDP and UNHCR.

coordination across the Organization and with non-United Nations actors, at both the global and the country level, and to increase and deepen required capacity in priority areas of three main "baskets" of rule of law activity: **Rule of law at the international level**; **Rule of law in the context of conflict and post-conflict situations**; and **Rule of law in the context of long-term development**.

39. To achieve these objectives, it was agreed that a division of labour should be established among the key United Nations actors in which designated lead entities would assume clearly defined coordination and other responsibilities for specific areas of rule of law activity.

Rule of law baskets and sectors

40. For purposes of coherence and coordination, the rule of law activities of the Organization can be grouped into three main baskets, as mentioned above. The first basket, **Rule of law at the international level**, includes issues related to the Charter of the United Nations, multilateral treaties, international dispute resolution mechanisms, the International Criminal Court and advocacy, training and education regarding international law.

41. The second basket, **Rule of law in the context of conflict and post-conflict situations**, includes two components, **Transitional justice** and **Strengthening of national justice systems and institutions**. The activities under Transitional justice will include the following: national transitional justice consultation processes, truth and reconciliation processes, reparations, international and hybrid tribunals, national human rights institutions, vetting processes and ad hoc investigations, fact-finding and commissions of inquiry.

42. The second component of **Rule of law in the context of conflict and post-conflict situations** is also the core component of the third basket, on **Rule of law in the context of long-term development**, and comprises activities in the area of Strengthening of national justice systems and institutions. These include work to strengthen legal and judicial institutions (e.g. prosecution, ministries of justice, criminal law, legal assistance, court administration and civil law), policing, penal reform, the administration of trust funds and monitoring. In addition, the following additional priority areas have been identified: customary, traditional and community-based justice and dispute resolution mechanisms; victim and witness protection and assistance; combating corruption, organized crime, transnational crime and trafficking, and drug control; legal education; public law issues (e.g. land and property, registration, national identification, citizenship and statelessness); interim law enforcement and executive judicial functions performed by the United Nations; and security support to national police agencies. So as to ensure coherence, the activities in the final basket, **Rule of law in the context of long-term development**, will closely mirror those activities being undertaken in the context of conflict and post-conflict societies. United Nations human rights standards and norms will be integrated throughout the baskets and sectors.

1. Division of labour

43. The designation of **lead entities** with clearly defined responsibilities is intended to ensure a much higher degree of coherence, predictability and accountability in the delivery of rule of law assistance. Lead entities will be

designated in accordance with their mandates and will not assume exclusive responsibility for the relevant area either at the global or the country level, but will be expected to perform operational, coordination and policy functions and thus, generally at both the global and the country level, will need to ensure that they have adequate capacities that can be provided on behalf of the entire system, taking into account and making best use of existing capacities, expertise and mandates in other United Nations and non-United Nations actors.

(a) Global level

44. At the global level, the lead entities will have the following responsibilities:

- **Support to Member States**, as requested
- **Collaboration with non-United Nations actors**: proactive reaching out to and ensuring systematic collaboration with all relevant non-United Nations actors in the particular area
- **Capacity**: assessing the overall needs and available capacities in the relevant area and taking action to ensure that required capacities and mechanisms exist, including ensuring sufficient staff capacity that the rest of the Organization can draw upon and managing rosters of experts
- **Coordination** through area-specific mechanisms: maintaining close links with other United Nations and non-United Nations actors, including on planning, standards, best practice, advocacy and mobilization of resources
- **Policy development, standard-setting and best practices**, including tools, manuals and methodologies
- **Training** at the international and regional levels, including development of agreed training tools and materials
- **Substantive guidance** to missions and country teams, including support in planning processes

(b) Country level

45. At the country level, in consultation with Member States, the lead entity will have the following responsibilities:

- **Acting as the primary counterpart of national authorities**
- **Identification of key partners** active or interested in the particular country
- **Coordinated planning and strategy development** within the specific area, including needs assessment and analysis
- **Coordination of programme implementation** with all relevant partners within the area and ensuring effective links with other related areas
- **Application of standards**: ensuring that participants are aware of relevant standards and that activities are in line with those standards
- **Training** at the national and local levels and coordination of other actors conducting training in the same area

- **Resource mobilization**: advocate for donors to fund participants to carry out priority activities in the area concerned

46. Though there would be a general presumption that a global lead entity will perform a lead role in the relevant area in States where new rule of law programmes are established, the designation of global lead entities for a particular area will not imply an exclusive implementation role. Lead entities will take into account and draw on the capacities and expertise of other entities. The primary role of the coordination and planning mechanisms led by the resident coordinator or special representative of the Secretary-General or his deputy will be respected and current arrangements for rule of law activities will be reviewed on a case-by-case basis, including by the Rule of Law Coordination and Resource Group referred to below. Among other things, this approach will help avoid the undesirable situation in which two United Nations actors operate separate programmes on the same rule of law topic in the same country. Where more than one United Nations actor has resources to devote to a particular rule of law sector, it will be done jointly, under the authority of the designated lead. Thus, peace operations will have integrated legal and judicial reform programmes and units operating within the same peace operation under a single head. In exceptional cases in which the global lead entity does not have the capacity to perform this role in a particular country, it should be consulted on the arrangements agreed by the United Nations country team and will be expected to perform the global support functions described above.

47. The aim of the proposed approach is to increase predictability while also preserving sufficient flexibility to take into account circumstances at the country level. Disagreements that cannot be resolved at the country level would be referred to the Rule of Law Coordination and Resource Group (see below), in consultation with the resident coordinator or special representative of the Secretary-General and their Headquarters counterparts.

2. Overall coordination

48. In addition to proposing the division of labour described above, I have decided to create a **Rule of Law Coordination and Resource Group**, consisting of the key United Nations actors,[7] which will act as Headquarters focal point for coordinating system-wide attention on the rule of law so as to ensure quality, policy coherence and coordination.[8] It will be designed to work closely with the lead entities and avoid any duplication of their sector-specific coordination and other functions. Much of the day-to-day and field-level coordination would be within baskets as part of a decentralized process. The Group will focus on overall coordination and policy issues and help ensure that the lead entities fulfil their responsibilities. Its specific tasks will include:

(a) Periodically convening the United Nations actors that provide rule of law assistance to discuss rule of law developments and efforts and to share information;

[7] The Office of Legal Affairs, the Department of Peacekeeping Operations, OHCHR, UNODC, UNDP, UNIFEM and UNHCR.

[8] When requested by Member States, the Rule of Law Coordination and Resource Group will also coordinate our constitutional assistance.

(b) Maintaining a clearing house of information about who in the Organization provides what rule of law assistance as an information resource for those inside and outside the United Nations;

(c) Acting as a resource for the Peacebuilding Commission and Peacebuilding Support Office;

(d) Helping to ensure that the Organization responds, effectively and coherently, to requests from States for assistance, in close collaboration with lead entities;

(e) Providing policy direction by the preparation of policy papers, in conjunction with relevant lead entities;

(f) Mediating disagreements among United Nations rule of law assistance providers that cannot be solved at the sector or country level and, if necessary, presenting such disputes to the Secretary-General for decision, including through the Policy Committee;

(g) Assisting in the development of overall strategies for rule of law assistance;

(h) Acting as a repository for the Organization's rule of law materials and best practices, including the identification and endorsement of core rule of law materials, and establishing and managing Web resources;

(i) Facilitating contact between United Nations actors involved in rule of law programming and Member States, regional and intergovernmental organizations, donors and non-governmental organizations;

(j) Maintaining a global roster of professionals in the rule of law field;

(k) Supporting the promotion of the rule of law in international relations;

(l) Assisting in the mobilization of resources.

49. The Group will be supported by a secretariat unit of up to four Professional staff, to be seconded from key United Nations actors during the initial phase. The Group will be chaired and supervised by the Deputy Secretary-General. The decision as to where the Group is located will be addressed by the incoming Secretary-General. Given the broad remit of the new entity, it would not be appropriate to place it within the Peacebuilding Support Office.

50. Once established, the Rule of Law Coordination and Resource Group will lead a consultative process with Member States and other relevant partners to identify priority gaps in capacity of the United Nations that need to be filled in the rule of law area and will recommend where and by when those capacities should be established. This review must take account of the fact that the Organization does not need to be engaged in all areas of rule of law activity. It needs to truly prioritize the entry points since there is much room for other key non-United Nations actors. In addition, the Group will coordinate the request from the General Assembly for the preparation of an inventory of current activities of the Organization devoted to the promotion of the rule of law at the national and international levels (resolution 61/39, para. 2). The Group will also give consideration to recommending the creation of a rule of law trust fund for the whole system to draw upon.

VI. Final observations

51. In this report, I have set out practical measures the United Nations system will take to enhance its arrangements for supporting the rule of law and transitional justice activities of the Organization. I have identified those priority areas in which it will deliver high-calibre advice and assistance to Member States, in partnership with other non-United Nations actors. The Organization will continue to increase and deepen its capacity in priority areas of rule of law activity identified in this report.

52. My decision to significantly enhance coherence and coordination across the Organization through the designation of baskets and a division of labour will ensure a much higher degree of predictability and accountability in the delivery of rule of law assistance to Member States. In addition, the creation of a robust coordination mechanism, led by a senior United Nations official, will ensure quality control, policy coherence and meaningful coordination within Headquarters and with our field operations. With a robust coordination mechanism in place and with the assistance of the lead entities, the Organization will be able to ensure that we begin a process in which we retain and build on our institutional memory in the rule of law.

53. As Member States have reaffirmed their commitment to the rule of law as an all-important framework for advancing human security and prosperity, I too reaffirm the commitment of this Organization to support Member States to ensure that fair and effective national legal, judicial, prison and police institutions are in place so that societies emerge from a violent past. I believe that my decision to ensure that the Organization has a core United Nations cadre of rule of law expertise, coupled with meaningful and robust coordination, can only benefit Member States in their recommitment to an international order based on the rule of law. Moreover, I am convinced that the investment by Member States to increase the capacity of the Organization to support their efforts to uphold the rule of law will contribute significantly to peace and security, as well as to sustainable development.